

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UGO NETWORKS, INC.,

Opposer,

v.

KONAMI CORPORATION,

Applicant.

Consolidated Opposition No. 91/153,578
Serial Nos.: 76/074,595 and 76/075,729

11-12-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #22

**DECLARATION OF NATASHA SNITKOVSKY
IN SUPPORT OF OPPOSER'S MOTION TO COMPEL AND TO PRECLUDE,
AND STATEMENT PURSUANT TO 37 CFR 2.120(e)**

NATASHA SNITKOVSKY, under the penalties of perjury, declares as follows:

1. I am an attorney admitted to practice before the Bar of the State of New York and am associated with the law firm of Willkie Farr & Gallagher LLP, counsel for opposer, UGO NETWORKS, INC. ("Opposer"). As such, I am fully familiar with the pleadings and proceedings heretofore and herein.

2. I make this declaration in support of Opposer's motion to compel responses from applicant, KONAMI CORPORATION ("Applicant"), to Opposer's interrogatories and request for production, and to preclude Applicant's introduction of evidence withheld from discovery, and to extend the discovery and trial periods, and pursuant to 37 CFR 2.120(e), to certify Opposer's good faith effort to resolve this matter.

3. If called upon as a witness, I could testify to the following based upon personal knowledge and/or my review of the files of Willkie Farr & Gallagher LLP kept in this matter.

4. On November 6, 2002, Opposer filed Notices of Opposition against Applicant's applications to register Applicant's Mark, claiming that Applicant's Mark was confusingly similar with Opposer's Mark.

5. On January 2, 2003 and April 4, 2003, Applicant served Opposer with its Answers to the Notices of Opposition, in which Applicant denied or disputed most of the allegations made by Opposer, and also asserted several affirmative defenses.

6. On April 23, 2003, the Board granted consolidation of the proceedings into one opposition.

7. On January 29, 2003, Opposer served upon Applicant: (i) Opposer's First Set of Interrogatories (the "Interrogatories"), a copy of which is annexed hereto as Exhibit A; (ii) Opposer's First Request for Production (the "Request for Production"), a copy of which is annexed hereto as Exhibit B; and (iii) Opposer's First Request for Admissions (the "Request for Admissions"), a copy of which is annexed hereto as Exhibit C (collectively "Opposer's Discovery Requests").

8. On February 5, 2003 and March 27, 2003, Applicant's counsel requested extensions of time in which to respond to Opposer's Discovery Requests. Opposer consented to the requested extensions.

9. On April 25, 2003, Applicant served upon Opposer: (i) Applicant's Objections and Answers to Opposer's First Set of Interrogatories (the "Interrogatory Responses"), a copy of which is annexed hereto as Exhibit D; (ii) Applicant's Objections and Responses to Opposer's First Request for Production (the "Document Responses"), a copy of which is annexed hereto as Exhibit

E; and (iii) Applicant's Objections and Responses to Opposer's First Request for Admissions (the "Admission Responses"), a copy of which is annexed hereto as Exhibit F (collectively, "Applicant's Discovery Responses"). In Applicant's Discovery Responses, Applicant has asserted blanket boilerplate objections, provided deliberately vague responses, and failed to identify documents and information essential to the opposition. For example:

(a) Applicant refused to identify possible fact witnesses (Interrogatory Responses 1, 2, 3, 8, 14, and 35);

(b) Applicant refused to identify Applicant's enforcement efforts relating to Applicant's Mark (Interrogatory Response 21, Document Response 17);

(c) Applicant refused to identify Applicant's knowledge and discussions of Opposer's Mark (Interrogatory Response 21, Document Responses 17 and 21);

(d) Applicant stated it would supply additional documents and information at the conclusion of its ongoing investigation (Interrogatory Responses 4, 5, 14 and 21, Documents Response 37), but seven months later Opposer has received no supplemental disclosure; and

(e) Applicant stated it would supply additional information and documents following entry of a protective order (Interrogatory Responses 1-3, 8, 9, 14-21 and 24-35, Document Responses 1-5, 7, 17, 18, 20-23, 41, 42 and 46), but over four weeks after a protective order was entered Opposer has still received no supplemental disclosure.

10. Applicant refused to identify the goods sold under Applicant's Mark (Interrogatory Response 6) or licenses concerning Applicant's Mark (Interrogatory Responses 9 and 18, Document Responses 43 and 45), but denied that it markets video game software (Admission

Response 11) or computer games (Admission Response 12) under Applicant's Mark. Yet, video game software and computer games clearly are marketed in Commerce under Applicant's Mark, as evidenced by the printouts annexed hereto as Exhibit G;

11. Opposer's counsel sent Applicant's counsel a letter, dated May 7, 2003, (i) requesting production of the nonconfidential documents identified in Applicant's Discovery Responses; (ii) asking Applicant to forward its proposed form of protective order to address Applicant's overbroad objection to producing documents without entry of a protective order; and (iii) setting forth deficiencies in Applicant's Discovery Responses, including Applicant's inappropriate and unfounded use of boilerplate objections to respond to many requests, and requesting that Applicant reconsider these objections and make a reasonable attempt to provide non-privileged information and documents relevant to the instant proceeding so that both parties could proceed without the intervention of the Board. A copy of the May 7th letter is annexed hereto as Exhibit H.

12. On May 16, 2003, having received no response to the May 7th Letter, Opposer's counsel sent Applicant's counsel another letter, reiterating its requests. A copy of the May 16th letter is annexed hereto as Exhibit I.

13. On May 19, 2003, Opposer's counsel received an email from Applicant's counsel in response to the May 7th and May 16th letters, addressing Applicant's production of nonconfidential documents and stating that Applicant's counsel would soon forward a draft protective order. However, the May 19th email did not address Opposer's request for Applicant to reconsider its overbroad use of boilerplate objections and produce additional relevant documents and information. A copy of the May 19th email is annexed hereto as Exhibit J,

accompanied by the May 19th response of Opposer's counsel, again reiterating its request.

14. Applicant's counsel sent Opposer's counsel a letter, dated October 7, 2003, enclosing the protective order, signed by the parties and filed with the Board, and stating that Applicant could now supplement its document production to include confidential documents. Copies of this letter and the protective order are annexed hereto as Exhibit K.

15. On October 15, 2003, Opposer's counsel sent Applicant's counsel a letter, detailing deficiencies in Applicant's Discovery Responses, including Applicant's: (i) refusal to identify persons with knowledge relevant to the proceedings; (ii) failure to produce information and documents regarding knowledge and discussions of Opposer's Mark; (iii) failure to disclose information and documents regarding Applicant's enforcement efforts relating to Applicant's Mark; and (iv) refusal to respond to discovery questions concerning license agreements and arrangements between Applicant and third parties concerning Applicant's Mark. Opposer's counsel also asked that Applicant produce confidential documents, now that the protective order was in place. A copy of the October 15th letter is annexed hereto as Exhibit L.

16. On October 17, 2003, Opposer's counsel received an email from Applicant's counsel, stating that it was preparing a response to the October 15th letter and would supplement Applicant's "earlier responses and document production next week." A copy of this email is annexed hereto as Exhibit M.

17. On November 4, 2003, having received no supplemental production from Applicant, Opposer's counsel sent Applicant's counsel another letter (the "November 4th Letter"), reiterating its request for supplemental production. A copy of the November 4th Letter is annexed hereto as Exhibit N.

18. On November 7, 2003, Opposer's counsel received an email from Applicant's counsel, stating that it was prepared to provide its supplemental production. Opposer's counsel responded, asking for Applicant's counsel to proceed to send the supplemental production via overnight mail. However, Opposer's counsel received neither a response nor supplemental production and sent another email to Applicant's counsel on November 10, 2003, followed by yet another email on November 12, 2003, reiterating its request for immediate production. A copy of this email chain is annexed hereto as Exhibit O. Opposer's counsel also telephoned Applicant's counsel on November 12, 2003 and left voicemail messages for Jeffrey Kaufman and Brian Darville, requesting a return telephone call. Opposer's counsel received no return call on November 12th.

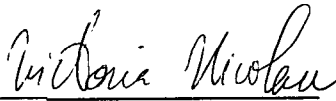
19. To date, Opposer has received no additional or supplemental production from Applicant. Opposer thus has filed the instant motion to compel discovery necessary for adjudication of this proceeding and to preclude Opposer from offering into evidence materials withheld from discovery.

Dated: New York, New York
November 12, 2003


NATASHA SNITKOVSKY

CERTIFICATE OF SERVICE

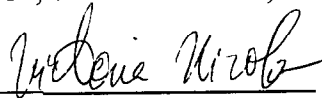
I certify that a copy of the foregoing DECLARATION OF NATASHA SNITKOVSKY IN SUPPORT OF OPPOSER'S MOTION TO COMPEL AND TO PRECLUDE, AND STATEMENT PURSUANT TO 37 CFR 2.120(e) was served on counsel for Applicant, Jeffrey H. Kaufman, Oblon, Spivak, McClelland, Maier & Neustadt, P.C., 1940 Duke Street, Alexandria, Virginia 22314, by first-class postage prepaid mail, on November 12, 2003.


Victoria Nicolau

CERTIFICATE OF MAILING

Express Mail Label No. EL798004207US

I hereby certify that this DECLARATION OF NATASHA SNITKOVSKY IN SUPPORT OF OPPOSER'S MOTION TO COMPEL AND TO PRECLUDE, AND STATEMENT PURSUANT TO 37 CFR 2.120(e) is being deposited as "Express Mail Post Office to Addressee" in an envelope addressed to: BOX TTAB, NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on November 12, 2003.


Victoria Nicolau

A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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KONAMI CORPORATION,

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Opposition No. 91/153,578

Appln. Serial No.: 76/074,595

OPPOSER'S FIRST SET OF INTERROGATORIES

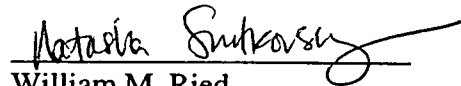
PLEASE TAKE NOTICE that, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, UGO NETWORKS, INC., requests that Applicant, KONAMI CORPORATION, answer the following interrogatories under oath within thirty (30) days after service hereof upon Applicant's counsel of record in this proceeding.

Dated: New York, New York
January 29, 2003

Yours, etc.,

UGO NETWORKS, INC.

By:



William M. Ried

Natasha Snitkovsky

Its Attorneys

WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

DEFINITIONS AND INSTRUCTIONS

- A. As used herein, "Opposer" refers to Opposer, UGO NETWORKS, INC., and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents or representatives thereof.
- B. As used herein, "Applicant" refers to Applicant, KONAMI CORPORATION, and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents and representatives thereof.
- C. As used herein, "Applicant's Mark" refers collectively to the mark represented by Application No. 76/074,595 in the United States Patent and Trademark Office and to the design mark consisting of the term "Yu-Gi-Oh" in stylized Kanji characters as used by Applicant in any form alone or with another word or design.
- D. As used herein, "Opposer's Mark" refers individually and collectively to the mark UGO, as used by Opposer or Opposer's predecessor in interest, in block letter or stylized form, including as represented in Registration Nos.: 2,450,661; 2,519,204; and 2,562,837.
- E. As used herein, "Commerce" refers to commerce regulable by Congress, as defined in 15 U.S.C. § 1127.
- F. In the event the answer to any interrogatory is not within Applicant's knowledge or a complete answer to a particular interrogatory is not possible, Applicant's answer should so indicate and Applicant should answer the interrogatory to the extent possible, specifying the reason for the inability to answer the remainder and stating any information or knowledge in the Applicant's possession concerning the unanswered portion.
- G. The singular and plural forms are used herein interchangeably, as are the masculine and

feminine forms. Additionally, the terms "and" and "or" are meant as both conjunctive and disjunctive.

- H. As used herein, the terms "entity" and "person" include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.
- I. As used herein, "document" has the broad meaning ascribed to that term by Rule 34 of the Federal Rules of Civil Procedure and refers to that writing, recording or other transcription of data of any kind from which information may be obtained, including all drafts and non-identical copies thereof, regardless of origin or location.
- J. As used herein, "identify" or "identity" shall be deemed to request the following information:
 - 1) When used in reference to a natural person: his/her full name and last known address;
 - 2) When used in reference to any entity other than a natural person: its full name and the address of its principal place of business; and
 - 3) When used in reference to a document and any draft or non-identical copy thereof: its date, author(s) and the identity of its present location and present custodians.
- K. "Including" shall be construed to mean "without any limitation." The word "all" includes "any" and vice versa. The past tense shall include the present tense and the present tense shall include the past tense so as to make the interrogatory inclusive, rather than exclusive.

- L. Each person answering these interrogatories is required to furnish information within that person's personal knowledge and the possession of that person's attorneys, agents, representatives or employees.
- M. If Applicant claims attorney-client privilege or any other privilege in reference to any request for production, the allegedly privileged document need not be produced, but Applicant shall state with respect to such document sufficient information to explain the claim of privilege and permit the adjudication of the propriety of that claim, including the following information: (i) the date of the document; (ii) a description of the subject matter of the document; and (iii) the name(s) and address(es) of each person who has prepared, received and/or had possession, custody or control of the document or a copy thereof.
- N. In addition to providing supplementary and amended responses as required by Rule 26(e) of the Federal Rules of Civil Procedure, Opposer requests that, if Applicant subsequently identifies further or different information relevant to any request herein, it produce such documents to Opposer's attorneys promptly. If Applicant is not agreeable for any reason to providing such supplementary and amended responses, Opposer requests that Applicant so advise Opposer's attorneys at the time it serves its original response to these interrogatories.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each person with knowledge concerning Applicant's use (past, current or planned) of Applicant's Mark in Commerce, including the first use in Commerce of Applicant's Mark.

INTERROGATORY NO. 2:

Identify each person who participated, in any fashion or capacity, in preparing, filing and/or prosecuting any application to register Applicant's Mark.

INTERROGATORY NO. 3:

Identify each person who participated, in any fashion or capacity, in the consideration, selection and adoption of Applicant's Mark and in conducting any search or investigation by or on behalf of Applicant concerning Applicant's Mark including, but not limited to, any search or investigation of the records at the United States Patent and Trademark Office or state corporation or trademark records or domain name registration records.

INTERROGATORY NO. 4:

Identify the date of first use of Applicant's Mark in Commerce, if any, and each document upon which Applicant will rely to establish such date.

INTERROGATORY NO. 5:

If Applicant used any variation of Applicant's Mark in Commerce prior to the date identified in response to Interrogatory No. 4, identify each such variation and the manner and date of first use of such variation.

INTERROGATORY NO. 6:

For each year since the date of first use of Applicant's Mark, identify each product or service bearing Applicant's Mark offered for sale or sold in Commerce by Applicant and, as to each such product or service:

- a. state the quantity and the dollar value of sales of each product or service;
- b. identify the channel(s) of commerce through which Applicant offered for sale or sold the product or service; and

- c. identify each and every document reflecting or referring or relating to such offer for sale or sale.

INTERROGATORY NO. 7:

If Applicant's offer for sale and sale in Commerce of each product or service identified in response to Interrogatory No. 6 has not been continuous from the date of first use of Applicant's Mark, identify the length of such cessation and explain the reason for any cessation.

INTERROGATORY NO. 8:

In connection with each product or service identified in response to Interrogatory No. 6, identify all person(s) who are or have been responsible for:

- a. manufacture or production;
- b. marketing, advertising and promotion; and
- c. sale.

INTERROGATORY NO. 9:

If Applicant claims to have acquired the right to use or register Applicant's Mark from any other entity, identify:

- a. each such entity;
- b. the date of such acquisition; and
- c. each and every document reflecting, referring to or relating to such acquisition.

INTERROGATORY NO. 10:

Identify the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first advertised or promoted.

INTERROGATORY NO. 11:

Identify the type of individuals, corporations or other entities to whom Applicant's products and services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

INTERROGATORY NO. 12:

Identify the marketing channels through which Applicant's products and services are marketed and promoted or proposed to be marketed and promoted under Applicant's Mark.

INTERROGATORY NO. 13:

Identify the channels of distribution through which Applicant's products and services are sold or proposed to be sold under Applicant's Mark.

INTERROGATORY NO. 14:

Identify each entity that has rendered services on Applicant's behalf in connection with the advertising or promotion of products or services sold or offered for sale under Applicant's Mark and, for each such entity, describe the nature and dates of such service.

INTERROGATORY NO. 15:

If Applicant has ever received a statement or opinion from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by any other entity, identify:

- a. the entity that rendered the statement or opinion;
- b. each person acting for Applicant who received a written or oral communication of the statement or opinion;

- c. the date(s) Applicant received written or oral communication(s) of the statement or opinion; and
- d. each and every document reflecting, referring to or relating to such statement or opinion.

INTERROGATORY NO. 16:

If Applicant has ever conducted or commissioned or is otherwise aware of any survey, sampling, focus group or other formal or informal study, concerning the recognition or reaction to Applicant's Mark or goods or services bearing Applicant's Mark or to Opposer's Mark or goods or services bearing Opposer's Mark, identify:

- a. the date of the survey, sampling, focus group or other study;
- b. the individuals involved in reporting of, designing and conducting the survey, sampling, focus group or other study;
- c. the results of the survey, sampling, focus group or other study; and
- d. each and every document reflecting or referring or relating to the survey, sampling, focus group or other study.

INTERROGATORY NO. 17:

Identify all surveys, studies, reports, market research tests, memoranda and other documents relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark or reports relating to confusion, sponsorship or association between Opposer and Applicant or Opposer's Mark and Applicant's Mark.

INTERROGATORY NO. 18:

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements),

with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;
- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

INTERROGATORY NO. 19:

If Applicant has ever objected to any entity's use or registration of any trade name, trademark, service mark or descriptive term on the basis of Applicant's Mark, summarize the substance of each such objection and the resolution of the objection.

INTERROGATORY NO. 20:

If Applicant has ever been a party to, or otherwise participated in, any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark, state the full caption of the litigation or proceeding (including the names of all parties, commencement date, venue and docket number) and describe the resolution or status of the litigation or proceeding.

INTERROGATORY NO. 21:

Describe the date and circumstances under which Applicant first learned of Opposer's use of Opposer's Mark and identify each document reflecting or referring or relating to such notice.

INTERROGATORY NO. 22:

Identify in detail each incidence, within Applicant's knowledge, of confusion or mistake between Applicant's Mark and Opposer's Mark, or between Applicant and Opposer, including the person(s) confused and each person affiliated with Applicant who has knowledge of such incidents.

INTERROGATORY NO. 23:

As to each person whom Opposer intends to rely upon as an expert witness, state:

- a. the qualifications of the expert;
- b. the subject matter on which the expert is expected to testify;
- c. the substance of the facts and opinions to which the expert is expected to testify; and
- d. a description of each document the expert has reviewed or relied upon in formulating his or her opinion and each and every document the expert will assert supports each of his or her opinions.

INTERROGATORY NO. 24:

State fully and completely all facts which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 25:

State fully and completely all facts which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 26:

State fully and completely all facts which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 27:

State fully and completely all facts which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 28:

State fully and completely all facts which support Applicant's first affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 29:

State fully and completely all facts which support Applicant's second affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 30:

State fully and completely all facts which support Applicant's third affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 31:

State fully and completely all facts which support Applicant's fourth affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 32:

State fully and completely all facts which support Applicant's fifth affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 33:

State fully and completely all facts which support Applicant's sixth affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 34:

State fully and completely all facts which support Applicant's seventh affirmative defense, dated December 27, 2002.

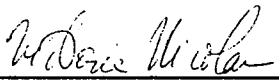
INTERROGATORY NO. 35:

With respect to each interrogatory herein, identify the person or persons who furnished information regarding the answers given.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served on counsel for Applicant, this 29th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220


Victoria Nicolau

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UGO NETWORKS, INC.,

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Applicant.

Opposition No. 91/153,578

Appln. Serial No.: 76/074,595

OPPOSER'S FIRST REQUEST FOR PRODUCTION

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant, KONAMI CORPORATION, is hereby requested to produce for inspection and copying at the offices of Willkie Farr & Gallagher, 787 Seventh Avenue, New York, New York 10019 within thirty (30) days after service hereof upon Applicant's counsel of record in this proceeding, or at such other time and place as may mutually be agreed upon, all documents and things herein requested which are within the possession, custody or control of Applicant or its counsel.

Dated: New York, New York
January 29, 2003

Yours, etc.,

UGO NETWORKS, INC.

By: William M. Ried
William M. Ried
Natasha Snitkovsky
Its Attorneys

WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

DEFINITIONS AND INSTRUCTIONS

- A. As used herein, "Opposer" refers to Opposer, UGO NETWORKS, INC., and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents or representatives thereof.
- B. As used herein, "Applicant" refers to Applicant, KONAMI CORPORATION, and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents and representatives thereof.
- C. As used herein, "Applicant's Mark" refers collectively to the mark represented by Application No. 76/074,595 in the United States Patent and Trademark Office and to the design mark consisting of the term "Yu-Gi-Oh" in stylized Kanji characters as used by Applicant in any form alone or with another word or design.
- D. As used herein, "Opposer's Mark" refers individually and collectively to the mark UGO, as used by Opposer or Opposer's predecessor in interest, in block letter or stylized form, including as represented in Registration Nos.: 2,450,661; 2,519,204; and 2,562,837.
- E. As used herein, "Commerce" refers to commerce regulable by Congress, as defined in 15 U.S.C. § 1127.
- F. The singular and plural forms are used herein interchangeably, as are the masculine and feminine forms. Additionally, the terms "and" and "or" are meant as both conjunctive and disjunctive.

- G. As used herein, the terms "entity" and "person" include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.
- H. As used herein, "document" has the broad meaning ascribed to that term by Rule 34 of the Federal Rules of Civil Procedure and refers to that writing, recording or other transcription of data of any kind from which information may be obtained, including all drafts and non-identical copies thereof, regardless of origin or location.
- I. As used herein, "identify" or "identity" shall be deemed to request the following information:
- 1) When used in reference to a natural person: his/her full name and last known address;
 - 2) When used in reference to any entity other than a natural person: its full name and the address of its principal place of business; and
 - 3) When used in reference to a document and any draft or non-identical copy thereof: its date, author(s) and the identity of its present location and present custodians.
- J. The term "trademark" means any word, name, symbol, design, shape, number, slogan or device, or any combination thereof, that is used by a person to identify and distinguish the person's goods and services from the goods and services of others. The use of the term "mark" is to be considered as the use of the term "trademark."

- K. "Including" shall be construed to mean "without any limitation." The word "all" includes "any" and vice versa. The past tense shall include the present tense and the present tense shall include the past tense so as to make the interrogatory inclusive, rather than exclusive.
- L. If Applicant claims attorney-client privilege or any other privilege in reference to any request for production, the allegedly privileged document need not be produced, but Applicant shall state with respect to such document sufficient information to explain the claim of privilege and permit the adjudication of the propriety of that claim, including the following information: (i) the date of the document; (ii) a description of the subject matter of the document; and (iii) the name(s) and address(es) of each person who has prepared, received and/or had possession, custody or control of the document or a copy thereof.
- M. Each responsive document shall be produced as it has been kept in the usual course of business or shall be organized and labeled to correspond with the individual request(s) to which it is responsive. If there are no documents responsive to any particular request, such information shall be set forth in writing.
- N. If any responsive document is not being produced because it has been destroyed, discarded or returned to a place outside of the possession, custody or control of Applicant, Applicant shall provide the date and a description of the form and contents of the document and shall further identify (by name and last known address) all persons known or believed to have had a copy of the document at any time.

- O. In addition to providing supplementary and amended responses as required by Rule 26(e) of the Federal Rules of Civil Procedure, Opposer requests that, if Applicant subsequently identifies additional documents responsive to any request herein, it produce such documents to Opposer's attorneys promptly. If Applicant is not agreeable for any reason to providing such supplementary and amended responses, Opposer requests that Applicant so advise Opposer's attorneys at the time it serves its original response to these requests.
- P. All documents produced should be stamped with a series of sequential numbers and/or letters, commonly known as "bate stamping."

REQUESTS

1. All documents identified in response to Opposer's First Set of Interrogatories, dated January 29, 2003.
2. Documents and things sufficient to describe Applicant's business, including but not limited to, annual reports, public filings, brochures, advertisements and promotional materials.
3. All documents and things supporting Applicant's use of Applicant's Mark as of June 2000 with respect to "computer products, namely, computer games programs; video game cartridges; video game CD-ROMS; video output game units; computer game CD-ROMS; video game programs; video game programs for use with television sets; video game machines for use with television sets; game-playing equipment, namely, joysticks and game controllers" (International Class 9).

4. All documents reflecting the date of first use of Applicant's Mark and date of first use of Applicant's Mark in Commerce on or in connection with each type of goods or services upon which use has commenced.

5. All documents and things that picture, refer to or describe products or services bearing Applicant's Mark including, without limitation, World Wide Web pages, tags, labels, containers, brochures, catalogs, price lists, point-of-purchase materials, advertisements, promotional materials, story boards, photo boards, scripts and radio and television advertisements.

6. Samples of each item of advertising or promotional material that describes services offered or planned to be offered under Applicant's Mark.

7. All documents pertaining to the adoption, creation, selection, design and/or drafting of Applicant's Mark, including trademark searches and correspondence from trademark search companies, design firms, advertising agencies, advertising media and suppliers.

8. All documents relating or referring to the decision by Applicant to adopt Applicant's Mark in any form or combination for any goods or services.

9. All documents relating or referring to other marks which Applicant has considered adopting in lieu of the adoption of Applicant's Mark.

10. All documents relating or referring to Applicant's filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark or any mark which incorporates Applicant's Mark, including communications and correspondence Applicant has had with the United States Patent and Trademark Office or any Secretary of State.

11. All correspondence between Applicant and any person responsible for the filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark.
12. Documents sufficient to show the dollar and unit volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year since such goods or services were first sold or offered for sale.
13. Documents sufficient to show the projected volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year for which projections have been made.
14. Documents sufficient to show the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first sold or offered for sale.
15. Documents sufficient to show Applicant's projected expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such services were first sold or offered for sale.
16. All documents, including communications and correspondence, Applicant has received from or transmitted to anyone concerning Applicant's Mark, its use, advertisement, promotion or display.
17. All documents reflecting or referring or relating to communications between Applicant and any entity regarding use by a third-party of any mark allegedly identical or similar to Applicant's Mark or the term "YU-GI-OH."
18. All documents reflecting the public's recognition of Applicant's Mark.

19. All documents and things which identify or describe the types of entities to which Applicant's services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

20. All documents relating to or referring to and/or demonstrating the channels of distribution through which Applicant's services are marketed and sold or proposed to be marketed and sold.

21. Minutes and notes from any meeting of Applicant or attended by Applicant referring to Applicant's Mark and/or Opposer's Mark.

22. All documents referring to (a) the media in which Applicant's services designated by Applicant's Mark or proposed to be designated by Applicant's Mark are advertised or promoted; (b) the nature of Applicant's advertising or promotion of services designated or proposed to be designated by Applicant's Mark; and (c) the extent of Applicant's advertising or promotion of services designated by or proposed to be designated by Applicant's Mark in such media.

23. Representative samples of all advertising materials used or under consideration for use by Applicant bearing or relating to Applicant's Mark, including all pre-production drafts, of all advertising and promotional materials, including catalogs, circulars, leaflets, direct mail pieces, newspaper and magazine advertisements, telephone book advertisements, World Wide Web sites and radio and television spots.

24. All documents and things which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

25. All documents and things which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

26. All documents and things which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

27. All documents and things which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

28. All documents and things which support Applicant's first affirmative defense, dated December 27, 2002.

29. All documents and things which support Applicant's second affirmative defense, dated December 27, 2002.

30. All documents and things which support Applicant's third affirmative defense, dated December 27, 2002.

31. All documents and things which support Applicant's fourth affirmative defense, dated December 27, 2002.

32. All documents and things which support Applicant's fifth affirmative defense, dated December 27, 2002.

33. All documents and things which support Applicant's sixth affirmative defense, dated December 27, 2002.

34. All documents and things which support Applicant's seventh affirmative defense, dated December 27, 2002.

35. All documents and things relating or referring in detail to each incidence of confusion, suspicion, mistake, belief or deception between Applicant's Mark and Opposer's Mark or between Applicant and Opposer or otherwise as to the source of Applicant's products or services.

36. All documents and things relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark and actual or likely confusion between Opposer and Applicant or Opposer's Mark and Applicant's Mark, including but not limited to surveys, studies, reports, market research tests and memoranda.

37. All documents which refer or relate to the date and circumstances under which Applicant first learned of the use by Opposer of Opposer's Mark.

38. All documents and things relating or referring to Applicant's knowledge, including its earliest knowledge, of Opposer's use and advertisement of Opposer's Mark.

39. All other documents and things in Applicant's custody, possession or control, relating or referring to Opposer's Mark.

40. All correspondence between Applicant and any of Applicant's predecessors in interest relating or referring to Applicant's Mark or Opposer's Mark.

41. All documents and things relating to Applicant's provision or intended provision of computer games and/or video games under Applicant's Mark.

42. For each person whom Applicant intends to rely upon as an expert witness, all documents the expert has reviewed or relied upon in formulating his or her opinion and all documents the expert will assert supports each of his or her opinions.

43. All documents reflecting, referring to or relating to Applicant's acquisition of the right to use or register Applicant's Mark from another entity.

44. All documents reflecting, referring to or relating to a statement or opinion ever received by Applicant from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by another entity.

45. All agreements or other indicia of understanding (including, but not limited to, licenses and agency, distributorship and joint venture agreements) with any entity concerning use of Applicant's Mark or to any plans by Applicant to consider or commence licensing or other exploitation by third parties of Applicant's Mark.

46. All documents relating to any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark or the term "YU-GI-OH."

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing OPPOSER'S FIRST REQUEST FOR PRODUCTION was served on counsel for Applicant, this 29th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220


Victoria Nicolau

000930/10006 - 1157890.3



NS

Applicant.

WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

DEFINITIONS AND INSTRUCTIONS

- A. As used herein, "Opposer" refers to Opposer, UGO NETWORKS, INC., and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents or representatives thereof.
- B. As used herein, "Applicant" refers to Applicant, KONAMI CORPORATION, and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents and representatives thereof.
- C. As used herein, "Applicant's Mark" refers collectively to the mark represented by Application No. 76/074,595 in the United States Patent and Trademark Office and to the design mark consisting of the term "Yu-Gi-Oh" in stylized Kanji characters as used by Applicant in any form alone or with another word or design.
- D. As used herein, "Opposer's Mark" refers individually and collectively to the mark UGO, as used by Opposer or Opposer's predecessor in interest, in block letter or stylized form, including as represented in Registration Nos.: 2,450,661; 2,519,204; and 2,562,837.
- E. As used herein, "Commerce" refers to commerce regulable by Congress, as defined in 15 U.S.C. § 1127.
- F. The singular and plural forms are used herein interchangeably, as are the masculine and feminine forms. Additionally, the terms "and" and "or" are meant as both conjunctive and disjunctive.

- G. As used herein, the terms "entity" and "person" include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.
- H. If Applicant claims attorney-client privilege or any other privilege in reference to any admission, Applicant shall state with respect to such admission sufficient information to explain the claim of privilege to permit the adjudication of the propriety of that claim.

REQUESTS FOR ADMISSIONS

1. Applicant did not offer for sale in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.
2. Applicant did not sell or provide in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.
3. Applicant did not promote or advertise in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.
4. Applicant had knowledge of Opposer's use of Opposer's Mark prior to June 2000.
5. Applicant currently has knowledge of Opposer's use of Opposer's Mark.
6. Applicant did not hire any advertising or promotional firm to advertise or promote goods and/or services under Applicant's Mark prior to June 2000.

7. Applicant filed its intent to use Application Serial No. 76/074,595 for Applicant's Mark after Opposer had commenced use of Opposer's Mark.

8. Applicant's date of first use of Applicant's Mark is subsequent to Opposer's first use of Opposer's Mark covered under Registration Nos. 2,450,661; 2,519,204; and 2,562,837.

9. Applicant's Mark is substantially similar to Opposer's Mark.

10. The goods or services offered under Applicant's Mark are substantially similar to the goods or services offered under Opposer's Mark.

11. Applicant markets video games under Applicant's Mark.

12. Applicant markets computer games under Applicant's Mark.

13. Applicant promotes and advertises its goods and/or services throughout the United States by means of, *inter alia*, the Internet.

14. Applicant has a Web site at the URL <www.konami.com>.

15. Attached as Exhibit A is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

16. Attached as Exhibit B is a true and correct printout of a Web page at the URL <www.gamespydaily.com/news/screenshots.asp?id=4581> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

17. Attached as Exhibit C is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

18. Attached as Exhibit D is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

19. Attached as Exhibit E is a true and correct printout of a Web page at the URL <www.esrb.com/error.asp?404;http://www.esrb.com/esrb_history.asp> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing OPPOSER'S FIRST REQUEST FOR ADMISSIONS (with Exhibits A-E) was served on counsel for Applicant, this 29th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220


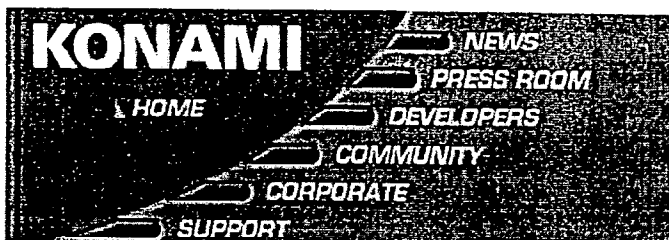

Victoria Nicolau

Exhibit A

[Check Out The Games -->](#)**01.22.03**

GameSpyDaily has posted some new screens and info on Konami's upcoming casino management game, Casino, Inc. Head on over and check it out!

01.20.03

For everyone who just can't get enough of our upcoming 2003 line-up, we've posted a whole bunch of new art, screens and logos for everything in our Media section. Click here to check it out!

01.16.03

Konami announced its upcoming blockbuster 2003 line-up at its **Gamers' Day 2003** press event held today in San Francisco, CA. During the event, amazing new details and surprises were revealed of such anticipated hits as Silent Hill 3, Zone of the Enders: The 2nd Runner, and the upcoming Teenage Mutant Ninja Turtles titles. Click here to read the press releases!

01.09.03

GameSpot.com has announced their picks for Best and Worst of 2002 and Suikoden III was honored with the award for Best Role-Playing Game on PlayStation® 2. Click here to read all about it!

01.06.03

Xbox Gamers First.com has posted a review for Metal Gear Solid 2: Substance for the Microsoft Xbox™ and gave it a score of 9.3 out of 10! See why they say, "If you own a Xbox, this is a must buy." Click here to read the full review.

01.03.03

IGN.com has announced their picks for IGN Editors' Choice Awards and Konami was honored for Metal Gear Solid 2: Substance for the Microsoft Xbox™. Click here to read the full press release!

**01.01.03**

From all of us here at Konami, we hope you had a great holiday and we wish everyone a happy New Year!

12.19.02

Konami posted an all-new webpage for World Soccer Winning Eleven 6 International for Sony PlayStation® 2. See why this game is the world's most popular soccer game! Click here to check out the game's stunning graphics and learn about it's ultra-realistic gameplay.

12.17.02

Konami is pleased to present all-new screenshots from one of our most anticipated titles for 2003: Silent Hill 3. Click here to see the screens, which reveal more of Silent Hill 3's eerie atmosphere and uniquely horrifying monsters, as well as the amazing graphical detail you can expect to see when the game hits early next year. (NOTE: These screens depict some violence, blood and gore.)

12.11.02

Konami has announced that Whiteout for the Microsoft Xbox™ and PC CD-ROM has shipped to stores nationwide. Just in time for the holidays, Whiteout captures all the thrills of high-speed snowmobile racing, including an array of powerful sleds, dozens of outrageous tricks and real SnoCross athletes. Click here to read the full press release!

12.10.02

Konami announced today that Frogger Beyond for the Nintendo GameCube™ and Microsoft's Xbox™ has shipped to retail outlets nationwide. With classic hop 'n' dodge gameplay, pick-up-and-play controls, colorful graphics and brand new features, Frogger Beyond is a fun-filled adventure that the whole family can enjoy. Click here to read the full press release!

12.09.02

The fans have spoken, and Konami has listened. Now, the world's best-selling soccer sim is coming to North America for the Sony PlayStation® 2 in 2003! For a sneak peek at new screens of what gamers around the world consider to be the definitive "football" title, click here!

12.06.02

Solid Snake is back, and he's sneaking onto the Microsoft Xbox™ with all new modes and missions in Metal Gear Solid 2: Substance! To see the thrilling 60-second TV commercial that's currently airing nationwide, click below!

Narrowband (303 kb QuickTime)

Broadband (4.82 MB QuickTime)

12.05.02

The verdict is in, and gamers everywhere are in love the blistering firepower and run n' gun gameplay of Contra: Shattered Soldier for the Sony PlayStation® 2. Click below to watch the hilarious TV commercial for this action-packed blast!

Narrowband (146 kb QuickTime)

Broadband (2.32 MB QuickTime)

12.04.02

Zone of the Enders: The 2nd Runner is coming in 2003 and you've never seen anything like it! For a sneak peek at this fast and furious anime-inspired action game, check out this incredible trailer that was featured at The 2002 Tokyo Game Show!

Narrowband (1.38 MB QuickTime)

Broadband (21.6 MB QuickTime)

12.02.02

The holiday season is here, and Castlevania: Harmony of Dissonance has been selected by our friends at TechTV as the GBA choice for their "Top 20 Gifts" list. Click here to learn more about critically acclaimed title and other great holiday picks!

11.26.02

Konami announced today that Evolution Snowboarding for Sony PlayStation® 2 has shipped to retail outlets nationwide. Evolution Snowboarding offers players a unique gameplay experience that fuses traditional snowboard racing with over-the-top combat action. Click here to read the full press release!

11.25.02

Konami today announced that Yu-Gi-Oh! Forbidden Memories Premium Edition for Sony PlayStation® has shipped to retail outlets nationwide. Originally released in March 2002, Yu-Gi-Oh! Forbidden Memories is now available with three exclusive Yu-Gi-Oh! official game cards and a limited-edition metallic foil package. Click here to read the full press release or click below for pictures of what's in store for you!

Exhibit B



Screenshots -

[More Screenshots](#)

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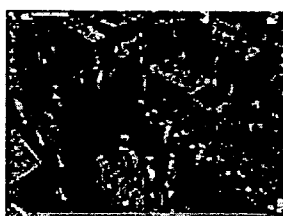
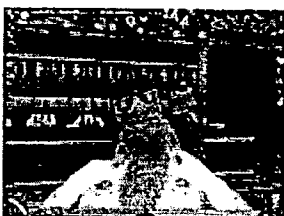
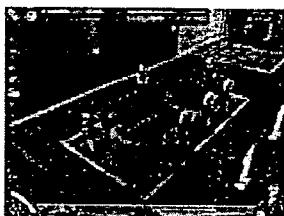
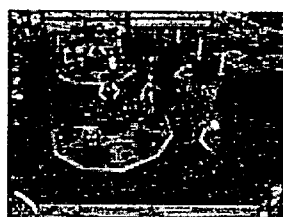


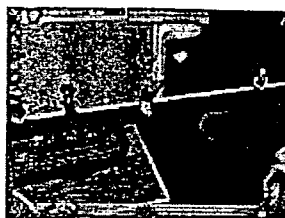
Casino Inc. Media

Konami takes a gamble with this strategy management sim for the PC.
Friday January 17, 2003 | [Prophet](#)

We've got some fresh new screenshots from Konami's Casino Inc. (yesterday they revealed it as **Casino Manager**, but that was a working title). Scheduled for release on March 25, Casino Inc. lets you take the reigns of a budding entertainment & gambling venue. Check out the description below, and then check out these nifty screenshots for an idea of what this game is all about.

Take a gamble on your skills as a casino manager in the cutthroat business full of card sharks, hit men and escorts. With game play both inside the casino and outside in the surrounding city, Casino Inc. (working title) requires gamers to build, manage and expand their empire by whatever means necessary. Hire troublemakers to disrupt the competition, place advertising throughout the city and even set up shuttle routes or limo services to drive customers in. Casino Inc. features simple and accessible controls, in-depth tutorials, 120 unique characters and the widest variety of attractions yet.





Related Links

- [Konami of America](#)
- [StrategyPlanet](#)
- [GameSpy](#)
- [GameSpyDaily](#)

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Be sure to read our [legal stuff](#) and check out how you can [advertise with us](#) and target your products and services to gamers.

Exhibit C



KONAMI BLAZES A NEW TRAIL WITH HIGH-SPEED SNOWMOBILE RACING IN WHITEOUT™

White-knuckle Snowmobile Racing Keeps The Adrenaline Pumping On Microsoft Xbox™ and PC CD-ROM

REDWOOD CITY, CA - December 10, 2002 - Konami of America Inc., announced today that *Whiteout* for the Microsoft Xbox™ and PC CD-ROM has shipped to stores nationwide. Just in time for the holidays, *Whiteout* captures all the thrills of high-speed snowmobile racing, including an array of powerful sleds, dozens of outrageous tricks and real SnoCross athletes.

The heart-pounding action begins as players jump into the boots of 12 different riders and choose from 14 powerful sleds -- each with a variety of upgrades available. Racing through 9 exhilarating trails, from Jackson Ridge to the Tundra Dome, players will uncover each track's hidden areas, shortcuts, interactive environments, destructible elements and special bonuses. Along the way, they'll pull off over 30 breathtaking aerial tricks on the scores of ramps, jumps and gaps found on each track. A wealth of power-ups, point multipliers and health recharges will help players stay ahead of the pack.

Whiteout is the only SnoCross game to feature snowmobile racing professionals. As players progress through the game they will have the opportunity to unlock well-known SnoCross stars like Nathan Titus, Justin Tate, Dennis Eckstrom and Trevor John.

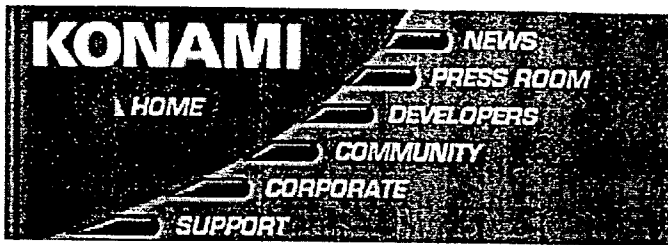
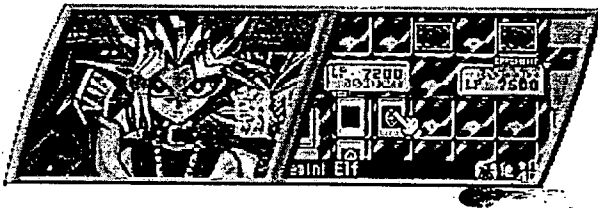
Whiteout offers 5 distinct methods of play: Progressive Career Mode lets gamers live the life of a real SnoCross athlete, upgrading their sled to keep up with the competition; Arcade Mode challenges gamers to accomplish an extensive set of objectives to progress through the levels. Additional play modes include Quick-play, Multiplayer and Time Trial.

Rated T for Teen, *Whiteout* is available at an SRP of \$49.99 for Microsoft Xbox™ and \$29.99 for PC CD-ROM.

A version for the Sony PlayStation® 2 shipped to retail outlets nationwide on November 26, 2002 and is available at an SRP of \$39.99.

KONAMI(R), the KONAMI(r) logo and WHITEOUT(tm) are trademarks of KONAMICORPORATION. (c) 2002 KONAMI CORPORATION.

Exhibit D

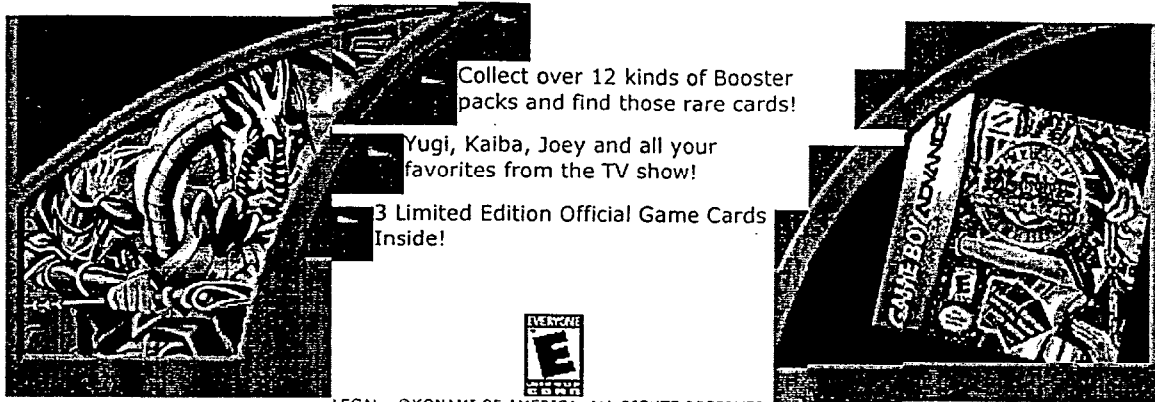
[Check Out The Games -->](#)

DESCRIPTION

The most accurate, advanced version of Duel Monsters arrives! The ultimate duel simulator based on the hit Trading Card Game and Television series! Duel against dozens of opponents from the TV show or challenge your friends. Import cards from the Official TCG to boost your deck. Complete your card collection and create the ultimate deck to enter the World Championship Tournament!

FEATURES

Over 800 cards full of new monsters, magic and traps!



Collect over 12 kinds of Booster packs and find those rare cards!

Yugi, Kaiba, Joey and all your favorites from the TV show!

3 Limited Edition Official Game Cards Inside!

EVERYONE
E
KONAMI

LEGAL ©KONAMI OF AMERICA. ALL RIGHTS RESERVED.

Exhibit E



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D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
	)	Opposition No. 91/153,578
v.	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	

**APPLICANT'S OBJECTIONS AND ANSWERS TO
OPPOSER'S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 33, Fed.R.Civ.P., and Trademark Rules 2.116(a) and 2.120(d)(1), Applicant, Konami Corporation, provides the following objections and answers to Opposer's First Set of Interrogatories ("Opposer's Interrogatories").

These objections and answers are based upon the best relevant information presently available to Applicant and are made without prejudice to the right of Applicant to provide additional or modified objections and answers should better or further information or belief subsequently become available to Applicant. These answers also are provided without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence or admissibility on any ground of any evidence or witness offered by Applicant; and these answers do not constitute an admission of competence, or admissibility of evidence, or a waiver of objection on any grounds.

GENERAL OBJECTIONS

Applicant objects to the Definitions and Instructions forming a part of Opposer's First Set of Interrogatories as overly broad, harassing, unduly burdensome and as imposing greater

obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each person with knowledge concerning Applicant's use (past, current or planned) of Applicant's Mark in Commerce, including the first use in Commerce of Applicant's Mark.

RESPONSE

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

INTERROGATORY NO. 2:

Identify each person who participated, in any fashion or capacity, in preparing, filing and/or prosecuting any application to register Applicant's Mark.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

INTERROGATORY NO. 3:

Identify each person who participated, in any fashion or capacity, in the consideration, selection and adoption of Applicant's Mark and in conducting any search or investigation by or on behalf of Applicant concerning Applicant's Mark including, but not limited to, any search or investigation of the records at the United States Patent and Trademark Office or state corporation or trademark records or domain name registration records.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

INTERROGATORY NO. 4:

Identify the date of first use of Applicant's Mark in Commerce, if any, and each document upon which Applicant will rely to establish such date.

RESPONSE

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

INTERROGATORY NO. 5:

If Applicant used any variation of Applicant's Mark in Commerce prior to the date identified in response to Interrogatory No. 4, identify each such variation and the manner and date of first use of such variation.

RESPONSE

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

INTERROGATORY NO. 6:

For each year since the date of first use of Applicant's Mark, identify each product or service bearing Applicant's Mark offered for sale or sold in Commerce by Applicant and, as to each such product or service:

- a. state the quantity and the dollar value of sales of each product or service;
- b. identify the channel(s) of commerce through which Applicant offered for sale or sold the product or service; and
- c. identify each and every document reflecting or referring or relating to such offer for sale or sale.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

INTERROGATORY NO. 7:

If Applicant's offer for sale and sale in Commerce of each product or service identified in response to Interrogatory No. 6 has not been continuous from the date of first use of Applicant's Mark, identify the length of such cessation and explain the reason for any cessation.

RESPONSE

Applicant's use of its mark in commerce has been continuous from the date of first use.

INTERROGATORY NO. 8:

In connection with each product or service identified in response to Interrogatory No. 6, identify all person(s) who are or have been responsible for:

- a. manufacture or production;
- b. marketing, advertising and promotion; and
- c. sale.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

INTERROGATORY NO. 9:

If Applicant claims to have acquired the right to use or register Applicant's Mark from any other entity, identify:

- a. each such entity;
- b. the date of such acquisition; and
- c. each and every document reflecting, referring to or relating to such acquisition.

RESPONSE

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

INTERROGATORY NO. 10:

Identify the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first advertised or promoted.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

INTERROGATORY NO. 11:

Identify the type of individuals, corporations or other entities to whom Applicant's products and services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

RESPONSE

Applicant's products and services are sold and marketed to the consuming public.

INTERROGATORY NO. 12:

Identify the marketing channels through which Applicant's products and services are marketed and promoted or proposed to be marketed and promoted under Applicant's Mark.

RESPONSE

Applicant objects to this interrogatory to the extent that it is duplicative of Interrogatory 6(b).

See Applicant's answer to Interrogatory No. 6(b).

INTERROGATORY NO. 13:

Identify the channels of distribution through which Applicant's products and services are sold or proposed to be sold under Applicant's Mark.

RESPONSE

Applicant objects to this interrogatory to the extent that it is duplicative of Interrogatory 6(b) and Interrogatory No. 12.

See Applicant's answers to Interrogatory No. 6(b) and Interrogatory No. 12.

INTERROGATORY NO. 14:

Identify each entity that has rendered services on Applicant's behalf in connection with the advertising or promotion of products or services sold or offered for sale under Applicant's Mark and, for each such entity, describe the nature and dates of such service.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

INTERROGATORY NO. 15:

If Applicant has ever received a statement or opinion from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of

confusion between Applicant's Mark and a trademark, service mark or trade name used by any other entity, identify:

- a. the entity that rendered the statement or opinion;
- b. each person acting for Applicant who received a written or oral communication of the statement or opinion;
- c. the date(s) Applicant received written or oral communication(s) of the statement or opinion; and
- d. each and every document reflecting, referring to or relating to such statement or opinion.

RESPONSE

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the forgoing objections, Applicant states that it is aware of no such information, with the exception of a search report to be produced in connection with Applicant's Responses and Objections to Opposer's First Request for Production of Documents.

INTERROGATORY NO. 16:

If Applicant has ever conducted or commissioned or is otherwise aware of any survey, sampling, focus group or other formal or informal study, concerning the recognition or reaction to Applicant's Mark or goods or services bearing Applicant's Mark or to Opposer's Mark or goods or services bearing Opposer's Mark, identify:

- a. the date of the survey, sampling, focus group or other study;
- b. the individuals involved in reporting of, designing and conducting the survey, sampling, focus group or other study;
- c. the results of the survey, sampling, focus group or other study; and
- d. each and every document reflecting or referring or relating to the survey, sampling, focus group or other study.

RESPONSE

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant states that it is aware of no such information.

INTERROGATORY NO. 17:

Identify all surveys, studies, reports, market research tests, memoranda and other documents relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark or reports relating to confusion, sponsorship or association between Opposer and Applicant or Opposer's Mark and Applicant's Mark.

RESPONSE

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objection, Applicant states that it is aware of no such documents.

INTERROGATORY NO. 18:

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements), with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;
- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

RESPONSE

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

INTERROGATORY NO. 19:

If Applicant has ever objected to any entity's use or registration of any trade name, trademark, service mark or descriptive term on the basis of Applicant's Mark, summarize the substance of each such objection and the resolution of the objection.

RESPONSE

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Subject to and without waiving the foregoing objections, Applicant states that it objected to a number of applications for federal trademark registration filed by Syconet.com incorporating the term YUGI-OH. The Syconet.com applications that were the subject of Applicant's objections were subsequently abandoned.

INTERROGATORY NO. 20:

If Applicant has ever been a party to, or otherwise participated in, any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark, state the full caption of the litigation or proceeding (including the names of all parties, commencement date, venue and docket number) and describe the resolution or status of the litigation or proceeding.

RESPONSE

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning

of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waving the foregoing objections, Applicant states that it is aware of no such litigation or administrative proceeding.

INTERROGATORY NO. 21:

Describe the date and circumstances under which Applicant first learned of Opposer's use of Opposer's Mark and identify each document reflecting or referring or relating to such notice.

RESPONSE

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant refers to its response to Request No. 4 of Opposer's First Request for Admissions.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

INTERROGATORY NO. 22:

Identify in detail each incidence, within Applicant's knowledge, of confusion or mistake between Applicant's Mark and Opposer's Mark, or between Applicant and Opposer, including the person(s) confused and each person affiliated with Applicant who has knowledge of such incidents.

RESPONSE

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Without waiving the foregoing objection, Applicant states that it is not aware of any such confusion.

INTERROGATORY NO. 23:

As to each person whom Opposer intends to rely upon as an expert witness, state:

- a. the qualifications of the expert;
- b. the subject matter on which the expert is expected to testify;
- c. the substance of the facts and opinions to which the expert is expected to testify;
and
- d. a description of each document the expert has reviewed or relied upon in formulating his or her opinion and each and every document the expert will assert supports each of his or her opinions.

RESPONSE

Applicant is not aware of a person that Opposer intends to rely on as an expert witness.

To the extent this interrogatory is understood to refer to Applicant instead of Opposer, Applicant states that it has not yet retained an expert witness in this matter.

INTERROGATORY NO. 24:

State fully and completely all facts which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 25:

State fully and completely all facts which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 26:

State fully and completely all facts which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 27:

State fully and completely all facts which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 28:

State fully and completely all facts which support Applicant's first affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 29:

State fully and completely all facts which support Applicant's second affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 30:

State fully and completely all facts which support Applicant's third affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 31:

State fully and completely all facts which support Applicant's fourth affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 32:

State fully and completely all facts which support Applicant's fifth affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 33:

State fully and completely all facts which support Applicant's sixth affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 34:

State fully and completely all facts which support Applicant's seventh affirmative defense, dated December 27, 2002.

RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

INTERROGATORY NO. 35:

With respect to each interrogatory herein, identify the person or persons who furnished information regarding the answers given.

RESPONSE

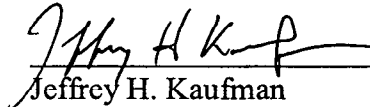
Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

Respectfully submitted,

KONAMI CORPORATION



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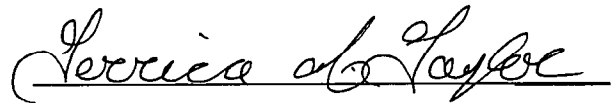
Dated: April 25, 2003

JHK/BBD/dlb/tmt {I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-INT.DOC}

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **APPLICANT'S OBJECTIONS AND ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES** was served on counsel for Opposer, this 25th day of April, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099



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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91/153,578
	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
)	

**APPLICANT'S OBJECTIONS AND RESPONSES TO
OPPOSER'S FIRST REQUEST FOR PRODUCTION**

Pursuant to Rule 34, Fed.R.Civ.P. and Trademark Rules 2.116(a) and 2.120(d)(2), Applicant, Konami Corporation, makes the following objections and responses to Opposer's First Request for Production of Documents and Things ("Opposer's Requests").

These objections and responses are based upon the best documents and information presently available to Applicant and are made without prejudice to the right of Applicant to make additional or modified objections and responses should better or further documentation or information subsequently become available to Applicant. These responses also are made without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Applicant; and these responses do not constitute an admission of competence or admissibility of evidence of evidence or a waiver of objection on any grounds.

GENERAL OBJECTIONS

Applicant objects to the Definitions and Instructions forming a part of Opposer's First Request for Production of Documents and Things as overly broad, harassing, unduly burdensome

and as imposing greater obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

REQUESTS

REQUEST NO. 1

All documents identified in response to Opposer's First Set of Interrogatories, dated January 29, 2003.

RESPONSE

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant will produce those representative, relevant, non-confidential, non-privileged documents responsive to this request.

REQUEST NO. 2

Documents and things sufficient to describe Applicant's business, including but not limited to, annual reports, public filings, brochures, advertisements and promotional materials.

RESPONSE

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Without waiving the foregoing objections, Applicant will submit copies of its Annual Reports for the past five years.

REQUEST NO. 3

All documents and things supporting Applicant's use of Applicant's Mark as of June 2000 with respect to "computer products, namely, computer games programs; video game cartridges; video game CD-ROMS; video output game units; computer game CD-ROMS; video game programs; video game programs for use with television sets; video game machines for use with television sets; game-playing equipment, namely, joysticks and game controllers" (International Class 9).

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 4

All documents reflecting the date of first use of Applicant's Mark and date of first use of Applicant's Mark in Commerce on or in connection with each type of goods or services upon which use has commenced.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 5

All documents and things that picture, refer to or describe products or services bearing Applicant's Mark including, without limitation, World Wide Web pages, tags, labels, containers, brochures, catalogs, price lists, point-of-purchase materials, advertisements, promotional materials, story boards, photo boards, scripts and radio and television advertisements.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 6

Samples of each item of advertising or promotional material that describes services offered or planned to be offered under Applicant's Mark.

RESPONSE

Applicant refers to its response to Request No. 3.

REQUEST NO. 7

All documents pertaining to the adoption, creation, selection, design and/or drafting of Applicant's Mark, including trademark searches and correspondence from trademark search companies, design firms, advertising agencies, advertising media and suppliers.

RESPONSE

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the foregoing objections, Applicant will produce a copy of the results of a trademark availability search conducted in connection with the selection of Applicant's Mark.

REQUEST NO. 8

All documents relating or referring to the decision by Applicant to adopt Applicant's Mark in any form or combination for any goods or services.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise

objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 9

All documents relating or referring to other marks which Applicant has considered adopting in lieu of the adoption of Applicant's Mark.

RESPONSE

Applicant is aware of no documents that are responsive to this request.

REQUEST NO. 10

All documents relating or referring to Applicant's filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark or any mark which incorporates Applicant's Mark, including communications and correspondence Applicant has had with the United States Patent and Trademark Office or any Secretary of State.

RESPONSE

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise

objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 11

All correspondence between Applicant and any person responsible for the filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 12

Documents sufficient to show the dollar and unit volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year since such goods or services were first sold or offered for sale.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

REQUEST NO. 13

Documents sufficient to show the projected volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year for which projections have been made.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

REQUEST NO. 14

Documents sufficient to show the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first sold or offered for sale.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

REQUEST NO. 15

Documents sufficient to show Applicant's projected expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such services were first sold or offered for sale.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

REQUEST NO. 16

All documents, including communications and correspondence, Applicant has received from or transmitted to anyone concerning Applicant's Mark, its use, advertisement, promotion or display.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 17

All documents reflecting or referring or relating to communications between Applicant and any entity regarding use by a third-party of any mark allegedly identical or similar to Applicant's Mark or the term "YU-GI-OH."

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise

objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Subject to and without waiver of the foregoing objections, Applicant will produce non-privileged, non-confidential documents that are responsive to this request.

REQUEST NO. 18

All documents reflecting the public's recognition of Applicant's Mark.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

REQUEST NO. 19

All documents and things which identify or describe the types of entities to which Applicant's services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

REQUEST NO. 20

All documents relating to or referring to and/or demonstrating the channels of distribution through which Applicant's services are marketed and sold or proposed to be marketed and sold.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

REQUEST NO. 21

Minutes and notes from any meeting of Applicant or attended by Applicant referring to Applicant's Mark and/or Opposer's Mark.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

REQUEST NO. 22

All documents referring to (a) the media in which Applicant's services designated by Applicant's Mark or proposed to be designated by Applicant's Mark are advertised or promoted; (b) the nature of Applicant's advertising or promotion of services designated or proposed to be designated by Applicant's Mark; and (c) the extent of Applicant's advertising or promotion of services designated by or proposed to be designated by Applicant's Mark in such media.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 23

Representative samples of all advertising materials used or under consideration for use by Applicant bearing or relating to Applicant's Mark, including all pre-production drafts, of all advertising and promotional materials, including catalogs, circulars, leaflets, direct mail pieces, newspaper and magazine advertisements, telephone book advertisements, World Wide Web sites and radio and television spots.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 24

All documents and things which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or documents subject of the attorney work product doctrine. Such information will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

Applicant objects to this request to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

REQUEST NO. 25

All documents and things which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 26

All documents and things which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 27

All documents and things which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 28

All documents and things which support Applicant's first affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 29

All documents and things which support Applicant's second affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 30

All documents and things which support Applicant's third affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 31

All documents and things which support Applicant's fourth affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 32

All documents and things which support Applicant's fifth affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 33

All documents and things which support Applicant's sixth affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 34

All documents and things which support Applicant's seventh affirmative defense, dated December 27, 2002.

RESPONSE

See Response to Request No. 24.

REQUEST NO. 35

All documents and things relating or referring in detail to each incidence of confusion, suspicion, mistake, belief or deception between Applicant's Mark and Opposer's Mark or between Applicant and Opposer or otherwise as to the source of Applicant's products or services.

RESPONSE

Applicant is aware of no documents that are responsive to this request.

REQUEST NO. 36

All documents and things relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark and actual or likely confusion between Opposer and Applicant or Opposer's Mark and Applicant's Mark, including but not limited to surveys, studies, reports, market research tests and memoranda.

RESPONSE

Applicant is aware of no documents that are responsive to this request.

REQUEST NO. 37

All documents which refer or relate to the date and circumstances under which Applicant first learned of the use by Opposer of Opposer's Mark.

RESPONSE

Applicant has and continues to investigate the circumstances under which Applicant, or its related companies, first became aware of Opposer's use of Opposer's Mark. Applicant will supplement this response to the extent the investigation reveals non-privileged, non-confidential relevant documents.

REQUEST NO. 38

All documents and things relating or referring to Applicant's knowledge, including its earliest knowledge, of Opposer's use and advertisement of Opposer's Mark.

RESPONSE

See Response to Request No. 37.

REQUEST NO. 39

All other documents and things in Applicant's custody, possession or control, relating or referring to Opposer's Mark.

RESPONSE

Applicant is aware of no documents that are responsive to this request.

REQUEST NO. 40

All correspondence between Applicant and any of Applicant's predecessors in interest relating or referring to Applicant's Mark or Opposer's Mark.

RESPONSE

Applicant objects to this request on the basis that it is vague and ambiguous as it is not framed with reasonable particularity, as required by Rule 34(b), Fed.R.Civ.P.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 41

All documents and things relating to Applicant's provision or intended provision of computer games and/or video games under Applicant's Mark.

RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 42

For each person whom Applicant intends to rely upon as an expert witness, all documents the expert has reviewed or relied upon in formulating his or her opinion and all documents the expert will assert supports each of his or her opinions.

RESPONSE

Applicant is aware of no documents that are responsive to this request with the exception of the trademark search results referred to in response to Request No. 7.

REQUEST NO. 43

All documents reflecting, referring to or relating to Applicant's acquisition of the right to use or register Applicant's Mark from another entity.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 44

All documents reflecting, referring to or relating to a statement or opinion ever received by Applicant from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by another entity.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Without waiving the foregoing objection, Applicant states that it is aware of no non-privileged documents that are responsive to this request.

REQUEST NO. 45

All agreements or other indicia of understanding (including, but not limited to, licenses and agency, distributorship and joint venture agreements) with any entity concerning use of Applicant's Mark or to any plans by Applicant to consider or commence licensing or other exploitation by third parties of Applicant's Mark.

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

REQUEST NO. 46

All documents relating to any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark or the term "YU-GI-OH."

RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

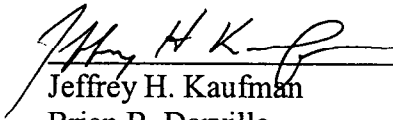
Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Subject to and without waiving the foregoing objections, Applicant refers Opposer to its
Response to Request No. 17.

Respectfully submitted,

KONAMI CORPORATION



Jeffrey H. Kaufman

Brian B. Darville

Amy C. Sullivan

OBLON, SPIVAK, McCLELLAND,

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1940 Duke Street

Alexandria, Virginia 22314

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Attorneys for Applicant

Dated: April 25, 2003

JHK/BBD/dlb/tmt {I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-POD.DOC}

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **APPLICANT'S OBJECTIONS AND
REPONSES TO OPPOSER'S FIRST REQUEST FOR PRODUCTION** was served on
counsel for Opposer, this 25th day of April, 2003, by sending same via First Class Mail, postage
prepaid, to:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

Lorica A. Taylor

F

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91/153,578
	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
)	

**APPLICANT'S OBJECTIONS AND RESPONSES TO
OPPOSER'S FIRST REQUEST FOR ADMISSIONS**

Pursuant to Rule 36(a), Fed.R.Civ.P. and Trademark Rules 2.116(a) and 2.120(h), Applicant, Konami Corporation, provides the following objections and responses to Opposer's First Request for Admissions.

These objections and responses are based upon the best relevant information presently available to Applicant and are made without prejudice to the right of Applicant to provide additional or modified objections and responses should better or further information subsequently become available to Applicant. These responses are also provided without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence or admissibility on any ground of any evidence or witness offered by Opposer, and these responses do not constitute an admission of competence, or admissibility of evidence, or a waiver of objection on any grounds.

GENERAL OBJECTIONS

Applicant objects to the Definitions and Instructions forming a part of Opposer's First Set of Interrogatories, incorporated by reference into Opposer's First Request for Admissions, as

overly broad, harassing, unduly burdensome and as imposing greater obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

REQUESTS FOR ADMISSIONS

REQUEST NO. 1

Applicant did not offer for sale in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.

RESPONSE

Admit.

REQUEST NO. 2

Applicant did not sell or provide in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.

RESPONSE

Admit.

REQUEST NO. 3

Applicant did not promote or advertise in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.

RESPONSE

Admit.

REQUEST NO. 4

Applicant had knowledge of Opposer's use of Opposer's Mark prior to June 2000.

RESPONSE

Denied as to Konami Corporation, Japan. Applicant has and continues to make reasonable inquiry into the information known or readily available to Applicant and this information is currently insufficient to enable Applicant to admit or deny this request with

respect to Applicant's related companies. Applicant reserves the right to supplement this response should additional information become available.

REQUEST NO. 5

Applicant currently has knowledge of Opposer's use of Opposer's Mark.

RESPONSE

Admit.

REQUEST NO. 6

Applicant did not hire any advertising or promotional firm to advertise or promote goods and/or services under Applicant's Mark prior to June 2000.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Investigation of the matter is ongoing. Applicant reserves the right to supplement this request should additional information become available.

REQUEST NO. 7

Applicant filed its intent to use Application Serial No. 76/074,595 for Applicant's Mark after Opposer had commenced use of Opposer's Mark.

RESPONSE

Admit. Applicant specifically denies that it had knowledge of Opposer's Mark at the time it filed Application Serial No. 76/074,595 for Applicant's Mark, subject to the qualification in response to Request No. 4.

REQUEST NO. 8

Applicant's date of first use of Applicant's Mark is subsequent to Opposer's first use of Opposer's Mark covered under Registration Nos. 2,450,661; 2,519,204; and 2,562,837.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request.

REQUEST NO. 9

Applicant's Mark is substantially similar to Opposer's Mark.

RESPONSE

Deny.

REQUEST NO. 10

The goods or services offered under Applicant's Mark are substantially similar to the goods or services offered under Opposer's Mark.

RESPONSE

Deny.

REQUEST NO. 11

Applicant markets video game software under Applicant's Mark.

RESPONSE

Deny.

REQUEST NO. 12

Applicant markets computer games under Applicant's Mark.

RESPONSE

Deny.

REQUEST NO. 13

Applicant promotes and advertises its goods and/or services throughout the United States by means of, inter alia, the Internet.

RESPONSE

Admit.

REQUEST NO. 14

Applicant has a Web site at the URL <www.konami.com>.

RESPONSE

Admit.

REQUEST NO. 15

Attached as Exhibit A is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

REQUEST NO. 16

Attached as Exhibit B is a true and correct printout of a Web page at the URL <www.gamespydaily.com/news/screenshots.asp?id=4581> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

REQUEST NO. 17

Attached as Exhibit C is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

REQUEST NO. 18

Attached as Exhibit D is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

REQUEST NO. 19

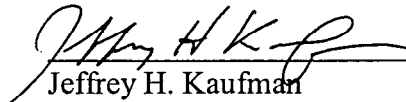
Attached as Exhibit E is a true and correct printout of a Web page at the URL <www.esrb.com/error.asp?404;http://www.esrb.com/esrb history.asp> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

RESPONSE

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

Respectfully submitted,

KONAMI CORPORATION



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Attorneys for Applicant

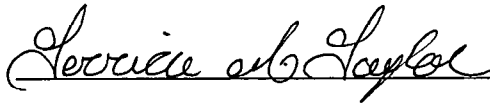
Dated: April 25, 2003

JHK/BBD/dlb/tmt {I:\atty\JHK\Konami\Filings\1394-231349US-Adm.doc}

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST REQUEST FOR ADMISSIONS** was served on counsel for Opposer, this 25th day of April, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099



6



Enter Coupon Code: nightowl from 9pm-5am PST and receive 15% Off your Entire order!



Yugioh Duel Masters
Guide Gift Box Set

Home > Yu-gi-oh > Yugioh Video Games



Below is a listing of All of the Yugioh-related Video Games and Promo Cards

Yugioh Video Game Info Page

Click the Link above to Learn & Read About Yu-gi-oh Games For:
Nintendo GameBoy Advance - GBA - Game Boy Color - GBC Sony PlayStation - PS

Regular price: \$39.95
Sale price: \$32.95

Add To Cart

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Yugioh Starter Decks

Yugioh Cards Sets

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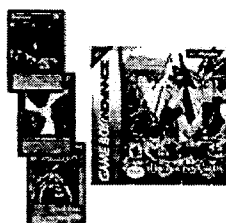
Yugioh Hot Items

Yugioh Merchandise

Yugioh Video Games

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Yugioh SACRED
CARDS Gameboy
Advance Sealed
Video Game

\$48.95

Quantity: 1

Add To Cart



Yugioh SACRED
CARDS Video Game
ONLY (No Cards
Included)

Regular price: \$28.95
Sale price: \$19.95

Quantity: 1

Add To Cart



Yugioh TSC Full Set
of 3 Promo Cards

Regular price: \$49.95
Sale price: \$38.95

Quantity: 1

Add To Cart

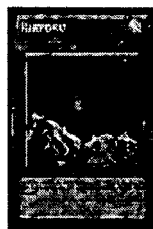


Yugioh PERFECTLY
ULTIMATE GREAT
MOTH TSC-001
Promo Card

\$24.95

Quantity: 1

Add To Cart



Yu gi oh RIRYOKU
TSC-002 Promo Card

Regular price: \$14.95
Sale price: \$9.95

Quantity: 1

Add To Cart



Yu-gi-oh NEGATE
ATTACK TSC-003
Promo Card

Regular price: \$19.95
Sale price: \$14.95

Quantity: 1

Add To Cart

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MFC-000 Dark Magician Girl Unlimited Edition Secret Rare



Sale price: \$48.95

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Master Dueller
Click on all the pictures on YugiohLand.com to find the secret Coupon Code



Yugioh Falsebound Kingdom Video Game for Gamecube w/ 3 Promo Cards

\$58.95

Quantity:

[Add To Cart](#)

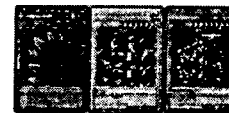


Yugioh Falsebound Kingdom Unsealed New Video Game for Gamecube
NO Cards included

Regular price: \$39.95
Sale price: \$28.95

Quantity:

[Add To Cart](#)

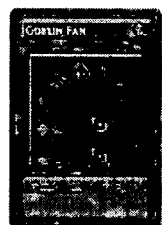


Yugioh Falsebound Kingdom Set of 3 Promo Cards

Regular price: \$58.95
Sale price: \$49.95

Quantity:

[Add To Cart](#)



Yugioh Goblin Fan FBK-001 Promo Card

\$12.95

Quantity:

[Add To Cart](#)



Yugioh Zoa FBK-002 Promo Card

\$18.95

Quantity:

[Add To Cart](#)

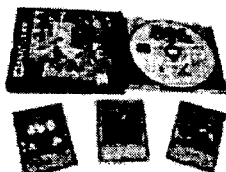


Yugioh MetalZoa FBK-003 Promo Card

\$28.95

Quantity:

[Add To Cart](#)



Forbidden Memories Premium Edition Sealed Video Game w/ 3 Rare Promos

\$138.95

Quantity:

[Add To Cart](#)



Forbidden Memories Video Game Only

Regular price: \$24.95
Sale price: \$14.95

Quantity:

[Add To Cart](#)



Yugioh Forbidden Memories 3 Card FMR Set

Regular price: \$154.95
Sale price: \$128.95

Quantity:

[Add To Cart](#)

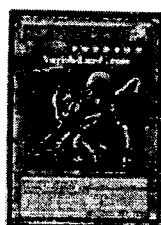


**FMR 001 Red Eyes
Black Metal Dragon
Forbidden Memories
Card**

\$64.95

Quantity:

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**FMR 002 Harpies Pet
Dragon Forbidden
Memories Card**

\$44.95

Quantity:

Add To Cart



**FMR 003 MetalMorph
Forbidden Memories
Card**

\$34.95

Quantity:

Add To Cart



**Dark Duel Stories
Game Only for
GameBoy Color
Yu gi oh Trading
Cards Game**

Regular price: **\$28.95**
Sale price: **\$19.95**

Quantity:

Add To Cart



**DDS-003 Exodia Dark
Duel Stories Promo
HoloFoil
Yu gi oh Trading
Cards Game**

Regular price: **\$99.95**
Sale price: **\$78.95**

Quantity:

Add To Cart



**DDS-004 Seiyaryu
Dark Duel Stories
Promo HoloFoil
Yu gi oh Trading
Cards Game**

Regular price: **\$19.95**
Sale price: **\$14.95**

Quantity:

Add To Cart



**DDS-005 Acid Trap
Hole Dark Duel
Stories Promo
HoloFoil
Yu gi oh Trading
Cards Game**

\$8.95

Quantity:

Add To Cart



**DDS-006 Salamandra
Dark Duel Stories
Promo HoloFoil
Yugi oh Trading
Cards Game**

Regular price: **\$18.95**
Sale price: **\$14.95**

Quantity:

Add To Cart



**Duelist of the Roses
UnSealed
USA/Canada PS2
Video Game (No
Promo Cards)**

Regular price: **\$34.95**
Sale price: **\$24.95**

Quantity:

Add To Cart



**DOR-001 Alpha
Promo Card**

Regular price: **\$19.95**
Sale price: **\$14.95**

Quantity:

Add To Cart



**DOR-003 Gama
Promo Card**

Regular price: **\$19.95**
Sale price: **\$14.95**

Quantity:

Add To Cart



**Game Boy Advanced
Stairway to the
Destined Duel Sealed
Game (3 Promo
Cards Included)**

\$78.95

Quantity:

Add To Cart



**World Wide Edition
Stairway to the
Destined Duel
Gameboy Advanced
Game Only (NO
Cards Included)**

\$24.95

Quantity:

Add To Cart



**SDD Set of 3
Stairway to the
Destined Duel
PROMO HoloFoil
Cards**

Regular price: **\$78.95**
Sale price: **\$59.95**

Quantity:

Add To Cart



**SDD-001 Valkyrior
The Magna Warrior
PROMO HoloFoil**

Regular price: **\$37.95**
Sale price: **\$29.95**

Quantity:

Add To Cart



**SDD-003 Harpie's
Feather Duster
PROMO HoloFoil**

Regular price: **\$32.95**
Sale price: **\$24.95**

Quantity:

Add To Cart



**SDD-002 Sinister
Serpent PROMO
HoloFoil**

\$14.95

Quantity:

Add To Cart



**Yu-Gi-Oh World Wide
Edition (Japanese)
Stairway to the
Destined Duel Video
Game Only NO
Cards-Plays in
ENGLISH**

Regular price: **\$19.95**
Sale price: **\$7.95**

Quantity: [Add To Cart](#)

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H

WILLKIE FARR & GALLAGHER

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

May 7, 2003

VIA FACSIMILE (703) 413-2220

Mr. Jeffrey H. Kaufman
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

Re: UGO Networks, Inc. v. Konami Corporation
Opposition No. 91/153,578
Responses to Opposer's Discovery Requests

Dear Mr. Kaufman:

We have reviewed Konami's responses to UGO's Interrogatories, Request for Production and Request for Admissions.

You advised that you are working with your client to make certain documents identified in your responses available for our inspection and copying. Please let us know when and where we may access these documents, the volume of these documents and what measures can be taken to photocopy and send us these documents in place of such inspection. You will recall that, upon your request, we forwarded copies of our document production to you simultaneously with responding to Konami's discovery requests.

Additionally, you have objected to producing a number of documents without entry of protective order. We believe you have extended this objection to an overbroad assortment of requested documents. However, we hope to agree with you upon a stipulated protective order to avoid troubling the Board with a dispute over the breadth of your objection. We thus invite you to forward your proposed form of protective order at your soonest convenience.

Finally, we ask that you reconsider whether Konami is willing without Board intervention to produce any more of the information and documents we requested. We believe many of your boilerplate objections are inappropriate or unfounded in regard to specific requests. For instance, you have refused to identify any persons with knowledge of Konami's use of Applicant's Mark in Commerce or the date of first use of Applicant's Mark in Commerce. Similarly, you have refused to produce any documents reflecting Konami's efforts to enforce its purported rights in Applicant's Mark or any information or documents pertaining to the licensing of or litigation concerning Applicant's Mark. We hope that you will reconsider these objections and make a reasonable attempt to provide non-privileged information and documents relevant to this proceeding, so that both we and the Board may avoid lengthy motion practice.

Mr. Jeffrey H. Kaufman
May 7, 2003
Page 2

In any event, as outlined above, we hope to at least focus our discovery dispute on the information and documents you refuse to produce following entry of a suitable protective order, and so look forward to seeing your proposed form for this order.

Thank you for your attention to this matter. We look forward to hearing from you soon.

Very truly yours,

A handwritten signature in cursive script, appearing to read "William M. Ried".

William M. Ried
Natasha Snitkovsky

787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

Date: May 7, 2003

Time: 2:33 PM

Total number of pages (including this page): 3

Please include Client/Matter No. below

FROM: William M. Ried

Room No.: 4652

Phone No.: (212) 728-8729

TO: Mr. Jeffrey H. Kaufman

Fax No.: (703) 413-2220

Telephone No.:

City: Alexandria

State: VA

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Attorney No.: 10868

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 New York NY 10019-6099
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FROM: William M. Ried

Room No.: 4652
 Phone No.: (212) 728-8729

TO: Mr. Jeffrey H. Kaufman Fax No.: (703) 413-2220
 City: Alexandria

Telephone No.:
 State: VA

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Client No.: 000930

Matter No.: 10006

Attorney No.: 10868

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WILLKIE FARR & GALLAGHER

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

May 16, 2003

VIA FACSIMILE (703) 413-2220

Mr. Jeffrey H. Kaufman
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

Re: UGO Networks, Inc. v. Konami Corporation
Opposition No. 91/153,578
Responses to Opposer's Discovery Requests

Dear Mr. Kaufman:

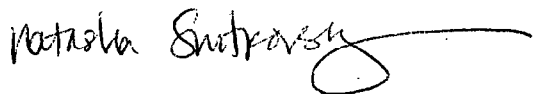
We are concerned that we have received no response from you to our letter of May 7, 2003, in which we asked for access to those documents you identified and agreed to produce in your response to our request for production and asked you to reconsider your boilerplate objections to producing documents and information. We also invited you to propose a form of protective order that would permit you to provide us with documents and information you have labeled as confidential.

We made the above requests in a good faith attempt, under 37 CFR § 2.120(e), to resolve the issues at bar without the intervention of the Board and to avoid lengthy motion practice. However, your lack of response indicates an unwillingness to cooperate or even communicate with us on discovery matters.

Please reconsider this position. We have been forthcoming in providing you with discovery responses and copying and forwarding to you our document production. We ask for the same consideration from you. We do not want to trouble the Board with a discovery dispute if this can be avoided.

We look forward to your prompt response.

Very truly yours,



William M. Ried
Natasha Snitkovsky

000930.10006/ 1209698.1

***** -COMM. JOURNAL- ***** DATE MAY-16-2003 ***** TIME 18:15 *** P.01

MODE = MEMORY TRANSMISSION

START=MAY-16 18:14

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FILE NO.= 072

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-WFG 40-086 40FAX4 -

***** -212 728 8111 - ***** 05971200969- *****

787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

Date: May 16, 2003

Time: 6:00 PM

Total number of pages (including this page): 2

*Please include Client/Matter No. below***FROM:** Natasha Snitkovsky

Room No.: 4042

Phone No.: 212-728-8180

TO: Mr. Jeffrey Kaufman
Oblon, Spivak,
McClelland, Maier &
Neustadt, P.C.

Fax No.: 703-413-2220

Telephone No.:

City:

State:

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Attorney No.: 10620

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J

Snitkovsky, Natasha

From: Jeffrey Kaufman [JKAUFMAN@oblon.com]
Sent: Monday, May 19, 2003 4:48 PM
To: Snitkovsky, Natasha; Ried, William
Cc: Amy Sullivan
Subject: UGO Networks, Inc. v. Konami Corporation

Consolidated Opposition Nos. 153,578 and 154,657
U.S. Application Nos. 76/074,595 and 76/075,729
Our Ref. No. 231349US-1394-229237

Mr. Ried and Ms. Snitkovsky:

We are in receipt of your April 29 e-mail, and May 7 and 16, 2003 letters.

We have received documents from our client responsive to Opposer's First Set of Requests for Production of Documents and Things. We will review and number the materials in our possession this week and can produce the non-confidential materials at your expense, or make the non-confidential materials available for your inspection at our offices beginning on Thursday, May 22, 2003. However, we do not expect to receive all the documents from Konami in response to Request for Production No. 3 until some time next week.

Please let us know if you would like for us to copy and produce the documents (at your expense), or when, after May 22, you would like to inspect the documents at our offices. We estimate that the total number of non-confidential documents in our possession to be approximately 1000. As we mentioned, at this time as we have not received all of the responsive documents, so this number may increase somewhat. If you decide you would like for us to copy and produce these documents, we will need two to three days from your notice in order to copy and ship the documents to you.

We have prepared a draft Stipulated Protective Order, which our client is reviewing. We hope to be in a position to propose a Stipulated Protective Order in the near future.

Regards,

Jeff Kaufman

Jeffrey H. Kaufman
Oblon, Spivak
1940 Duke Street, Alexandria, VA 22314 USA
voice 1-703-412-6404 fax 1-703-413-2220
jkaufman@oblon.com www.oblon.com

Snitkovsky, Natasha

From: Ried, William
Sent: Monday, May 19, 2003 5:19 PM
To: 'Jeffrey Kaufman'
Cc: Snitkovsky, Natasha
Subject: RE: UGO Networks, Inc. v. Konami Corporation

Mr. Kaufman:

Please advise us when all the initial documents are ready for inspection or copying.

We look forward to seeing your proposed form of protective order and reiterate our request that you reconsider the objections stated in your discovery responses and provide us with full and complete discovery so that we may avoid the need for discovery motion practice.

Sincerely,
Bill Ried

William M. Ried
Willkie Farr & Gallagher
787 Seventh Avenue
New York, NY 10019-6099
phone: (212) 728-8729
fax: (212) 728-9729
<wried@willkie.com>

-----Original Message-----

From: Jeffrey Kaufman [mailto:JKAUFMAN@oblon.com]
Sent: Monday, May 19, 2003 4:48 PM
To: Snitkovsky, Natasha; Ried, William
Cc: Amy Sullivan
Subject: UGO Networks, Inc. v. Konami Corporation

Consolidated Opposition Nos. 153,578 and 154,657
U.S. Application Nos. 76/074,595 and 76/075,729
Our Ref. No. 231349US-1394-229237

Mr. Ried and Ms. Snitkovsky:

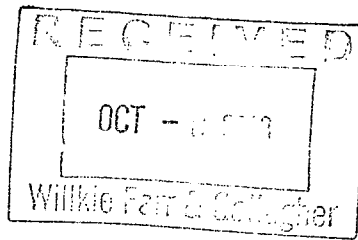
We are in receipt of your April 29 e-mail, and May 7 and 16, 2003 letters.

We have received documents from our client responsive to Opposer's First Set of Requests for Production of Documents and Things. We will review and number the materials in our possession this week and can produce the non-confidential materials at your expense, or make the non-confidential materials available for your inspection at our offices beginning on Thursday, May 22, 2003. However, we do not expect to receive all the documents from Konami in response to Request for Production No. 3 until some time next week.

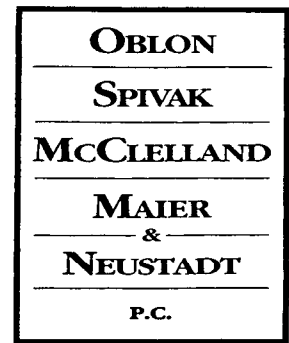
Please let us know if you would like for us to copy and produce the documents (at your expense), or when, after May 22, you would like to inspect the documents at our offices. We estimate that the total number of non-confidential documents in our possession to be approximately 1000. As we mentioned, at this time as we have not received all of the responsive documents, so this number may increase somewhat. If you decide you would like for us to copy and produce these documents, we will need two to three days from your notice in order to copy and ship the documents to you.



K



October 7, 2003
Via Courier



ATTORNEYS AT LAW

JEFFREY H. KAUFMAN
(703) 412-6404
JKAUFMAN@OBLON.COM

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 153,578
U.S. Appl. Serial No. 76/074,595
Our Ref.: 231349US-1394-229237-33

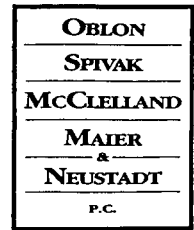
Dear Mr. Ried and Ms. Snitkovsky:

Enclosed please find a copy of the executed Protective Order submitted for entry in the above Opposition proceeding.

Now that the Protective Order is in place, we are in a position to supplement Konami Corporation's document production to include confidential documents. Given that settlement negotiations have ceased for the time being and in light of the Stipulated Protective Order now in place, we ask that you respond substantially to our letter of June 16, 2003 raising deficiencies in your client's discovery responses, and produce those confidential responsive documents withheld to date.

We would like to schedule the depositions of Ugo Networks employees, including a Rule 30(b)(6) representative. As the scheduling process can be protracted, we ask that you begin the process of gathering dates on which witnesses with the most knowledge of the creation, history and use of the UGO mark would be available.

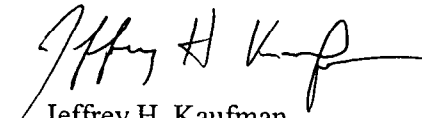
William M. Ried, Esq.
Natasha Snitkovsky, Esq.
231349US-1394-229237-33
Page 2



Finally, our client has proposed a further thirty day extension of the discovery period in this matter until November 1, 2003. Please advise if you would consent to this further extension.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

JHK/ACS/tmq/rab {I:\ATTY\JHK\KONAMI\LETTERS\1394-231349US-LTR8.DOC}

Enclosure(s): Copy of Executed Protective Order

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
	)	Opposition No. 91/153,578
v.	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
)	

NOTICE OF FILING STIPULATED PROTECTIVE ORDER

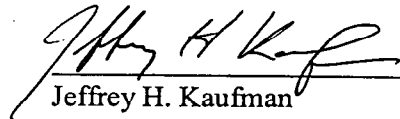
Applicant, Konami Corporation, tenders herewith a Stipulated Protective Order for entry in the above proceeding.

Applicant states that the Stipulated Protective Order, which has been signed by the parties and their respective counsel of record, is intended to prevent the disclosure of confidential, proprietary information of the type contemplated by Rule 26(c), Fed. R. Civ. P., and Trademark Rule 2.120(f).

Accordingly, Applicant asks that the tendered Stipulated Protective Order be entered in the above proceeding.

Respectfully submitted,

KONAMI CORPORATION



Jeffrey H. Kaufman

Amy Sullivan Cahill

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax (703) 413-2220

Attorneys for Applicant

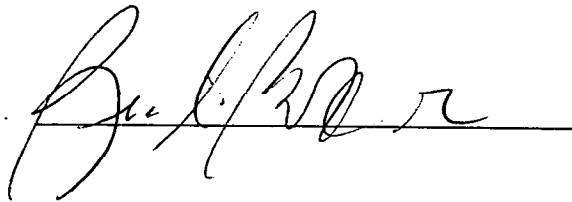
Dated: October 7, 2003

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **NOTICE OF FILING STIPULATED PROTECTIVE ORDER** was served on counsel for Opposer, this 7 day of October 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

A handwritten signature in cursive script, appearing to read "William M. Ried", is written over a horizontal line.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UGO NETWORKS, INC.,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 153,578
	)	U.S. Appln. Serial No. 76/074,595
KONAMI CORPORATION,)	
)	
Applicant.)	
)	

STIPULATED PROTECTIVE ORDER

Pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f),

IT IS HEREBY ORDERED, that if, in the course of this proceeding, either party has the occasion to disclose information deemed by such party to constitute confidential, proprietary information of the type contemplated by Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), the following procedures shall be employed and the following restrictions shall govern:

1. Any documents, answers to interrogatories, or document requests, deposition transcripts, or portions thereof, responses to requests for admissions, or any other material or portions thereof (hereinafter "Material") provided by either party to the other party during the pendency of this proceeding may be designated and marked, in whole or in part, "Confidential" by counsel for the party producing such Material, at the time of its production.

2. To the extent that Material is so marked Confidential, such Material shall only be revealed to or used by Qualified Persons as provided for in paragraph 3 hereof and shall not be communicated in any manner, either directly or indirectly, to any person or entity not permitted to receive disclosure of Confidential Material pursuant to this Protective Order. Any copies of

such Material, abstracts, summaries, or information derived therefrom, and any notes or other records regarding the contents thereof, shall also be deemed Confidential and the same terms regarding confidentiality of these materials shall apply as to the originals, and shall thereafter be referred to as "Confidential Material." Such Confidential Material shall be used only for purposes directly related to this proceeding, and for no other purpose whatsoever.

3. As used herein, the term "Qualified Persons" means:

(a) The following counsel for the parties, including said counsels' associate attorneys, legal assistants, paralegals and secretarial and clerical employees (including shorthand reporters):

(i) For Applicant: The firm of Oblon, Spivak, McClelland, Maier & Neustadt, P.C.,

(ii) For Opposer: The firm of Willkie Farr & Gallagher.

(b) Any independent experts not in the personal employ, regularly retained, or otherwise related to Opposer or Applicant, who have been employed or retained by a party or its attorney in connection with this action, may be given access to Confidential Material, for purposes directly related to this proceeding, and for no other purpose whatsoever, ten (10) days following opposing counsel's receipt of:

(i) the expert's executed Confidential Undertaking, in the following form:

The undersigned has read the Stipulated Protective Order entered in this proceeding pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), and confirms: (1) that he/she shall fully abide by the terms thereof; (2) that he/she shall not disclose the Confidential Material to or discuss the Confidential Material with any person who is not authorized pursuant to the terms of said Protective Order to receive the disclosure thereof; and (3) that he/she shall not use such Confidential Material for any purpose other than for the purposes of this proceeding;

(ii) a list of expert's prior experience and current affiliation;

and provided that opposing counsel has not objected in writing within the ten-day period to the expert's having access to Confidential Material.

4. Counsel in receipt of Confidential material from the other party shall notify counsel for the party of the disclosure of such Confidential Material to such Qualified Persons as designated in subsection (b) of paragraph 3 of this Protective Order. Each person designated and qualified in subsection (b) of paragraph 3 shall, in turn, hold such Confidential Material in confidence pursuant to the terms of this Protective Order.

5. Acceptance by a party of any information, document, or thing designated as Confidential shall not constitute a concession that the information, document or thing is confidential. Either party may contest a claim of confidentiality. In the event that the receiving party disagrees with the designation and marking by any producing party of any material as Confidential, the parties shall first try to resolve such dispute on an informal basis. If agreement cannot be reached between counsel, such dispute shall be presented to the Trademark Trial and Appeal Board for resolution.

6. The production of any information, document, or thing designated as Confidential shall not constitute a waiver of any objection counsel for the producing party may have to the use of such information, document, or thing in this action and shall not be construed as a concession

by the producing party that such information is relevant or material to any issue or constitutes admissible evidence.

7. The subject matter of all depositions given in connection with this action and the original and all copies of the transcripts of any such depositions shall be deemed to come within the term Confidential Material referred to in paragraph 2 of this Protective Order for a period ending twenty (20) working days after the transcript is received by the deponent's counsel. If testimony concerning Confidential Material is elicited at a deposition, counsel for either party may request that a designated portion of the transcript be treated as Confidential under this Protective Order. The stenographic reporter shall place the confidential testimony in a separately bound transcript marked CONFIDENTIAL, with page numbers corresponding to blank pages left in the deponent's non-confidential deposition transcript. Alternatively, on or before the twentieth (20th) working day after any such transcript is received by the deponent's counsel, such transcript may be designated and marked, in whole or in part, "Confidential" by counsel for the disclosing party, and the portions of the transcript(s) of the deposition(s) so marked shall be subject to the provisions of this Protective Order.

8. Where a discovery response, document, deposition transcript, or other tangible thing to be produced contains portions which have been designated Confidential, such Confidential Material shall be deleted therefrom before disclosing such Material to any person other than Qualified Persons as designated in paragraph 3.

9. Deletions made from any Material in accordance with the terms of this Protective Order shall not affect the admissibility of any such Material in evidence in this proceeding.

10. If Confidential Material is to be made of record in this proceeding, it shall be submitted to the Board in a separate sealed envelope or other sealed container bearing the

caption of this proceeding, the opposition number, and an indication of the general nature of the contents of the envelope or container, and, in large letters, the designation "CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER."

11. After this proceeding is finally completed, including all appeals, counsel for all parties shall return to the producing party or destroy all Confidential Materials and copies thereof. Such return or destruction shall be accompanied by a declaration by counsel that the material returned constitutes all existing copies not destroyed to the best of his or her knowledge.

SO ORDERED, this _____ day of _____, 2003.

TRADEMARK TRIAL AND
APPEAL BOARD

AGREED AS TO FORM AND SUBSTANCE:

UGO NETWORKS, INC.
By: [Signature]
Name: Tom T. Moser
Title: President & CEO
Date: Sept 18, 2003

KONAMI CORPORATION
By: [Signature]
Name: Shigeru Niwa
Title: Executive Officer
Date: 9/29/2003

WILLKIE FARR & GALLAGHER

By: [Signature]
William M. Ried
Natasha Shitkovsky
787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

By: [Signature]
Jeffrey H. Kaufman
Amy Sullivan Cahill
1940 Duke Street
Alexandria, VA 22314
(703) 413-3000

JHK/ACS/tmm [H:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-SPO.DOC]

L

WILLKIE FARR & GALLAGHER_{LLP}

WILLIAM M. RIED
212 728 8729
wried@willkie.com

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

October 15, 2003

VIA FACSIMILE 703-413-2220
CONFIRMATION VIA FIRST-CLASS MAIL

Jeffrey Kaufman, Esq.
Oblon, Spivak, McClelland, Maier & Neustadt P.C.
1940 Duke Street
Alexandria, VA 22314

Re: *UGO v. Konami*
Opposition No. 153,578

Dear Mr. Kaufman:

Now that it appears your client has decided to abandon settlement discussions and litigate this matter, we have returned to your responses to UGO's first round of discovery requests.

Following up on our previous requests that you reconsider the evasive nature of your responses and supply the information and documents required under the Trademark Rules and Federal Rules of Civil Procedure, this represents our further effort, pursuant to Trademark Rule 2.120(e), in good faith to resolve, without the intervention of the Board, our objections to Applicant's responses to Opposer's First Set of Interrogatories ("Applicant's Interrogatory Responses"), Opposer's First Request for Production ("Applicant's Document Responses") and Opposer's First Request for Admissions ("Applicant's Admissions").

Given the shortness of time, and your client's refusal to extend the impending close of discovery so we can attempt to resolve these matters in an orderly fashion, we must insist that you supplement your responses promptly to avoid forcing us to file a motion to compel.

Applicant's Interrogatory Responses

1. Throughout your responses, you refuse to identify persons with knowledge relevant to the proceedings. We requested that you identify persons with knowledge of use of Applicant's Mark (Interrogatory 1), filing and prosecution of applications for Applicant's Mark (Interrogatory 2), clearance searches that preceded this application (Interrogatory 3), manufacture, production,

marketing, advertising and promotion and sale of goods under Applicant's Mark (Interrogatory 8), and those persons furnishing information for your responses (Interrogatory 35). Your response in each instance was that the Interrogatory was vague and ambiguous, overly broad, harassing and unduly burdensome (implying that these are three separate grounds for objection) and sought the production of trade secrets or confidential research. We find this response in bad faith and insist upon a supplemental response identifying the relevant witnesses.

2. We asked you to identify the date of first use of Applicant's Mark (Interrogatory 4) and any earlier date pertaining to any variation of Applicant's Mark (Interrogatory 5). Your response was that your investigation was ongoing and that you reserved your right to supplement this response. Given that all Applicant's applications are based on an intent to use and that Applicant has admitted it did not sell goods in Commerce bearing Applicant's Mark prior to June 2000 (Applicant's Admission 1), your Interrogatory responses appear to be in bad faith. We request that you amend them.

3. We asked that you identify the goods and services sold under Applicant's Mark, the volume of such sales and the relevant channels of commerce (Interrogatory 6), rights in Applicant's Mark acquired from another entity (Interrogatory 9), and expenditures for promotion and advertising of goods under Applicant's Mark (Interrogatory 10). Your response was that these interrogatories were "overly broad, harassing and unduly burdensome" and sought the production of trade secret or other confidential research. We believe this is a fair ground for discovery and request your prompt production of confidential materials pursuant to the protective order now in place.

4. In an attempt to identify relevant witnesses, we asked you to identify those who had assisted Applicant in advertising or promoting goods under Applicant's Mark (Interrogatory 14). You provided no response beyond your boilerplate objections, a statement that your investigation was ongoing and that you reserved your right to supplement your response, followed by the rather oblique statement: "to the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of this interrogatory." What would meet the needs of this interrogatory and advance these proceedings would be for you to identify persons who or organizations that have rendered services to Applicant in regard to advertising or promoting products under Applicant's Mark. We assume that, in six months of investigation since serving your initial responses, you have now been able to identify your client's advertising agency. We insist that you supply us with this information.

5. We asked you to identify statements or opinions received in regard to the availability of Applicant's Mark (Interrogatory 15) and consumer surveys or studies related to Applicant's Mark (Interrogatories 16 and 17). These requests go to basic, relevant information. Yet, your response was that these requests called for the production of privileged communications, and that you would produce confidential information after entry of a protective order. In contradiction of this statement, you then stated that you were "aware of no such information with the exception of a search report to be produced" along with Applicant's Document Response. We take this rather winding response to mean that the only responsive information is contained within the search report produced and that you received no opinion of counsel reflecting follow-up in regard to this report or any analysis of its results. We are willing to accept this as an admission, but ask that you confirm you intend to supply no further confidential information pursuant to the protective order.

6. We asked you to identify agreements concerning use of Applicant's Mark (Interrogatory 18) and you responded only with your boilerplate objections, and a statement that you would produce information following entry of a protective order and that this information would only be such as "is sufficient to meet the needs of the interrogatory." We are aware of other users of your trademarks in this country. We are entitled to discover into the nature and extent of any licensing of Applicant's Mark and thus ask for your prompt amendment of this response.

7. We asked you to identify the date and circumstances under which Applicant first learned of Opposer's Mark (Interrogatory 21). Following your boilerplate objections, you stated you would produce confidential information after entry of a protective order. You also stated that your investigation was ongoing and referred to Applicant's Admission 4. Applicant's Admission 4 denied that "Konami Corporation, Japan" had knowledge of Opposer's Mark prior to June 2000 and stated that Applicant continued to investigate and was unable to admit or deny the request for admission. We do not see the knowledge of "Konami Corporation, Japan" as relevant to Request for Admission 4 or Interrogatory 21, to the extent this entity differs from Applicant. In any event, you have now had six months to investigate this matter, and a protective order is in place. You now should be in a position to identify the date and circumstances requested and we ask that you do so.

8. We asked that you state any facts that support your denial of the fact that Opposer's Mark and Applicant's Mark are pronounced identically (Interrogatory 25), and you responded with your standard objections and statement that you would produce information after entry of a protective order and added a complaint that you are not required to disclose the entirety of your proposed evidence during discovery. Please advise whether you intend now to produce confidential information as stated in this response, and the basis for your position that you may withhold from discovery relevant facts concerning the pronunciation of your mark.

9. In response to our requests for any facts supporting your seven affirmative defenses (Interrogatory Nos. 28-34), you responded again with standard objections, an agreement to produce confidential information and a complaint that discovery is not the time when you are required to disclose information. We find your objections particularly unresponsive in regard to these matters, in which you have affirmatively undertaken the burden of proof. While your first, fourth and fifth affirmative defenses are merely conclusions of law, we believe we are entitled to the facts underlying your claim that Opposer is barred by the doctrines of estoppel and laches (Interrogatory 29) and by the doctrines of acquiescence and waiver (Interrogatory 30), Opposer's Marks are weak and have not become distinctive of Opposer's goods or services (Interrogatory 33) and the presence of third party marks narrows the scope of protection of Opposer's Marks (Interrogatory 34). If you are indeed in possession of factual information to support these affirmative defenses, we insist that you produce this information at this time. We will move to preclude your later introduction of relevant, responsive information that you withhold from discovery.

Applicant's Admissions

1. We asked you to admit that Applicant hired no advertising or promotional firm to advertise or promote goods or services under Applicant's Mark prior to June 2000 (Request 6). You responded

that your investigation was ongoing and Applicant could not admit or deny this request. We insist upon your response now.

2. You admitted that you did not use Applicant's Mark prior to June 2000 (Applicant's Admissions 1-3). You are aware that the dates of first use covered by Opposer's Registration Nos. 2,450,661, 2,519,204 and 2,562,837 all precede June 2000. Yet, when we asked you to admit that Applicant's use of Applicant's Mark was subsequent to the first use dates stated in these registrations, you responded that you were unable to admit or deny this request. This response was in bad faith and we ask you to amend it.

3. We asked you to admit that our attachments showed printouts from Applicant's Web site (Requests 15-19). These requests were not unlike those in your own Request for Admissions, dated January 7, 2003, which asked that Opposer admit the attached documents represented printouts from *its* Web site. Nonetheless, your response was that you were unable to determine whether these printouts depicted Applicant's Web site on the dates cited. We ask that you reconsider this response and take advantage of the archival services available on the Internet, if necessary, to allow you either to admit or deny these requests.

Opposer's Document Responses

1. We asked you to produce any documents showing Applicant's use of Applicant's Mark prior to June 2000 with respect to identified goods (Request 3) and you responded that this information was privileged and would not be produced. Elsewhere, you admitted that Applicant does not market video game software or computer games under Applicant's Mark (Applicant's Admissions 11-12) and that Applicant did not offer for sale any goods in Commerce under Applicant's Mark prior to June 2000 (Applicant's Admissions 1-2). In implying documents responsive to Request 3 exist but will not be produced, you appear to contradict those admissions. In any event, you failed to identify the privileged documents, pursuant to the instructions, in order to allow the Board to rule upon your objections and we insist that you do so now. Finally, your final objection is that this request calls for documents pertaining to matters outside the United States and its territories and thus is not reasonably calculated to lead to the discovery of admissible evidence. This makes little sense as our request was confined to use of Applicant's Mark "in Commerce," which is defined in the instructions as: "Commerce regulable by Congress, as defined in 15 U.S.C. §1127."

2. We asked you to produce documents and things referring to or describing the products or services bearing Applicant's Mark, such as promotional materials, storyboards, Web pages, *etc.* (Request 5) and samples of promotional materials (Request 6). You responded in part that this information was publicly available and therefore as accessible to Opposer as it is to Applicant. We find this response to be deliberately obstructionist. Clearly, Applicant has better access to its own promotional materials than does Opposer. Nonetheless, your response also stated you would produce documents "sufficient to meet the needs of the request." This suggests you will take it upon yourself to decide what materials Opposer needs to see in order to make its case and that you are not required to produce representative samples of *all* relevant documents and things. Please confirm that this is your position so we may bring this issue before the Board.

3. We asked for documents pertaining to the adoption, creation, selection and design of Applicant's Mark and correspondence with trademark search companies, advertising agencies, *etc.* (Request 7). You responded that these documents would not lead to the discovery of admissible evidence, constituted secrets and confidential research that *would* be produced after entry of a protective order and that such documents were protected by privilege and would *not* be produced. These responses appear to be contradictory. Clearly Applicant's adoption, creation, selection and design of Applicant's Mark are relevant and central issues to this proceeding. You have admitted having no documents relating to searches to clear Applicant's Mark other than a search report already produced (Applicant's Interrogatory Response 22) and you are required to identify the documents you refuse to produce on the basis of privilege. It is thus unclear what documents you are now refusing to produce. However, we hope to avoid these issues by accepting production of the confidential documents you have agreed to produce pursuant to the protective order.

4. In response to Requests 11, 16 and 17, you agreed to produce confidential documents after entry of a protective order. We ask for that production now.

5. In contrast, in response to our request for the dollar and unit volume of sale in Commerce of goods and services bearing Applicant's Mark (Request 12) and promotional and advertising expenditures (Request 14), you responded merely that these requests were "overly broad, harassing and unduly burdensome" and requested trade secret and confidential information, and you refused to produce such documents even following entry of a protective order. We believe Opposer showed good faith in negotiating the terms of a comprehensive protective order basically in the form you proposed to assure that the confidentiality of Applicant's documents and information will be preserved outside these proceedings. We insist you amend this response and provide these confidential documents.

6. As for documents relating to communications between Applicant and other entities regarding their use of marks identical or similar to Applicant's Mark (Request 17), you responded that such materials were privileged and would not be produced. Clearly, your correspondence with third parties would not be privileged. We insist that such materials be produced. To the extent some documents covered by this request in fact passed only between Applicant and its attorney, you need simply identify these documents in order for the Board to rule upon your objection. Finally, it is nonsensical for you to claim trade secret protection for your communications with third parties concerning their alleged infringements of Applicant's rights, which disclosure to third parties would remove any valid claim of trade secret protection. We thus call for your production of all responsive documents now.

7. We asked for documents concerning public recognition of Applicant's Mark (Request 18), the types of entities to which services under Applicant's Mark are marketed (Request 19) or demonstrating the channels of distribution for Applicant's services (Request 20), and you refused to produce such documents because they were publicly available and therefore readily accessible to Opposer. We take these responses as support for your blanket statement that "Applicant's products and services are sold and marketed to the consuming public" (Applicant's Interrogatory Response 11) and shall move to preclude your introduction of any documents on these points that contradict your statement that you simply market and sell your goods and services to the general public.

8. We asked you to provide minutes or notes from any meeting attended by Applicant referring to Applicant's Mark or Opposer's Mark. You objected that this request called for privileged documents but failed to identify any such documents. You also called this request overly broad, but agreed to provide documents sufficient to meet the request while stating no basis upon which you will refuse to produce other relevant documents. You also responded that you would produce such documents that were confidential after an entry of a protective order, which has now been entered. Incredibly, you also claimed that such information is publicly available, suggesting the public is invited to Applicant's internal meetings and this information is accessible to Opposer. We ask that you produce all responsive, confidential documents now.

9. We asked that you produce documents in the nature of Applicant's advertising and promotion (Request 22) and samples of advertising materials (Request 23) and you responded that you would produce such confidential documents upon entry of a protective order. We ask that you produce such documents now.

10. We asked you to provide any documents supporting your denial that Opposer's Mark and Applicant's Mark are pronounced identically (Request 24), your affirmative defenses of estoppel and laches (Request 29), your affirmative defense of acquiescence and waiver (Request 30), your affirmative defense that Opposer's Marks are weak and have not become distinctive of Opposer's goods or services (Request 33) and your affirmative defense that use by third parties has narrowed the scope protection of Opposer's Mark (Request 34). Your response to each of these requests referred to your blanket privilege, overly broad and trade secret objections, and your assertion that you are not required to disclose such documents during discovery. We shall move to preclude you from offering any such documents that you do not produce at this time.

11. We asked you to produce documents reflecting circumstances under which Applicant became aware of Opposer's Mark (Request 37). You responded that you were investigating this matter and would supplement this response with production of non-privileged, non-confidential, relevant documents. The protective order is now in place, and we thus insist that you produce all such documents or note them on a privilege log at this time.

12. We asked you to produce correspondence with Applicant's predecessors-in-interest relating to Applicant's Mark or Opposer's Mark (Request 40) and any documents relating to Applicant's sale of computer games or video games (Request 41). You responded that you would produce such confidential documents after entry of a protective order. We ask that you produce such documents now.

13. We asked you to identify documents relating to Applicant's acquisition of Applicant's Mark from another entity (Request 43). You responded that you would produce such confidential documents after entry of a protective order. We ask that you produce such documents now.

14. We asked you to produce documents referring to statements or opinions relating to the adoption of Applicant's Mark, or the likelihood of confusion between Applicant's Mark and any mark used by any other entity (Request 44). You responded that such documents were privileged and would not be

Jeffrey Kaufman, Esq.
October 15, 2003
Page 7

produced. We ask that you identify such privileged documents so the Board can rule upon your objection.

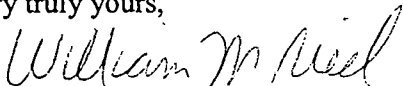
15. In response to our request for copies of all agreements concerning licenses, joint venture agreements, *etc.*, relating to Applicant's Mark (Request 45), you responded that such documents were privileged or would be produced following entry of a protective order. We ask that you produce the confidential documents now and schedule the privileged documents you refuse to produce so the Board can rule upon your objection.

For months since service of your responses to Opposer's discovery requests, you maintained that Applicant was interested in settling this matter. However, at no time during those months did you propose any terms for settlement. After waiting two months to hear Applicant's offer, Opposer made a concrete settlement demand in June. Each time we followed up with you after this, you advised that your client remained interested in settling but was not yet prepared to make a counter-proposal. These discussions now seem merely to have delayed Opposer's prosecution of this matter while it awaited the counter-proposal that never came.

Now that we are near the close of discovery, your client has refused to extend the discovery period for a reasonable period to permit Opposer to seek meaningful discovery on a voluntary basis. In light of this, we must insist that you respond immediately to these matters so that we may avoid referring these discovery matters to the Board.

We look forward to your response.

Very truly yours,



William M. Ried

cc: Sabina Sudan, Esq.

M

Snitkovsky, Natasha

From: Snitkovsky, Natasha
Sent: Friday, October 17, 2003 2:46 PM
To: Snitkovsky, Natasha
Subject: RE: UGO v. Konami Deadlines

-----Original Message-----

From: Amy Cahill [mailto:ACAHILL@oblon.com]
Sent: Friday, October 17, 2003 1:44 PM
To: Snitkovsky, Natasha
Cc: Jeffrey Kaufman
Subject: RE: UGO v. Konami Deadlines

Natasha:

Our client has agreed to a one month extension of the time for Ugo Networks to respond to its second set of discovery requests. I understand that Opposer's responses will now be due on November 17, 2003.

Konami has also agreed to a two month extension of the discovery and trial dates in this matter. We will prepare and file the request for extension with consent, as soon as you confirm that this is acceptable..

We are preparing a response to your letter of October 15, 2003, and believe we will be prepared to supplement Konami's earlier responses and document production next week.

In the meantime, we will prepare a Rule 30(b)(6) notice of deposition and discuss possible deposition dates with our client.

Amy Sullivan Cahill

Amy Sullivan Cahill, Esquire
Oblon, Spivak, McClelland, Maier & Neustadt, PC
1940 Duke Street
Alexandria, Virginia 22314
703.412.6464 Direct Dial
703.413.2220 Fax

>>> "Snitkovsky, Natasha" <nsnitkovsky@willkie.com> 10/16/03 06:56PM >>>

Amy,

Thank you for your below email. We look forward to receiving your client's response soon regarding the extensions.

With regard to depositions: Please include in your Rule 30(b)(6) Notice the areas of questioning you wish to cover, so we can determine who at UGO can be responsive. Please note that Alex Loucopoulos is no longer employed by UGO. Additionally, please advise whether, pursuant to our October 15th letter, we can expect supplemental responses to our discovery requests, identifying Konami employees, so that we can address all the depositions at once. We will be happy to set up depositions of the UGO witnesses to follow the conclusion of the Konami depositions, but we will need Konami's supplemental production in order to prepare for the Konami depositions. Please advise when we can expect such supplemental production.

Very truly yours,

Natasha Snitkovsky



2

WILLKIE FARR & GALLAGHER^{LLP}

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

November 4, 2003

VIA FACSIMILE 703-413-2220
CONFIRMATION VIA FIRST-CLASS MAIL

Jeffrey Kaufman, Esq.
Oblon, Spivak, McClelland, Maier & Neustadt P.C.
1940 Duke Street
Alexandria, VA 22314

Re: *UGO v. Konami*
Opposition No. 153,578

Dear Mr. Kaufman:

This will follow up our letter of October 15, 2003.

In your April 25th discovery responses, you stated in response to Interrogatories 1-3, 8-9, 14-21 and 24-35, and Document Requests 1-5, 7, 17-18, 20-23, 41-42 and 46 that you would supply additional information and documents following entry of a protective order. As you know, the protective order in this matter was entered on October 7, 2003. Please advise if and when you will supply this additional disclosure.

Also, you stated in response to Interrogatories 4-5, 14 and 21, Document Request 37, and Requests for Admission 4, 6 and 7 that you would supply additional documents and information at the conclusion of your ongoing investigation. It has been nearly seven months since you served this response and we have received no supplemental disclosure. Please advise if and when you will supplement your responses to reflect your investigation.

As you know, after you refused to identify any Konami employees with relevant knowledge, we noticed Konami's 30(b)(6) deposition to commence November 17, 2003. We will be unable to prepare for this deposition unless we immediately receive full disclosure from Konami. Moreover, your agreement outlined above to supply additional disclosure, but your failure to actually supply this disclosure, makes it difficult for us to frame a motion to compel discovery. We thus again implore you to supply all proper discovery responses in final form so that we can assess whether we can resolve our discovery disputes amicably and can proceed with the 30(b)(6) deposition as scheduled, or will be forced to seek the intervention of the Board.

Jeffrey Kaufman, Esq.
November 4, 2003
Page 2

We look forward to your prompt response.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Natasha Snitkovsky", followed by a long horizontal flourish.

Natasha Snitkovsky

cc: Sabina Sudan, Esq.
William M. Ried, Esq.



Snitkovsky, Natasha

From: Ried, William
Sent: Wednesday, November 12, 2003 4:43 PM
To: 'Brian Darville'
Cc: 'Jeffrey Kaufman (E-mail)'; Snitkovsky, Natasha
Subject: RE: UGO Networks v. Konami Corporation

Brian:

We are perplexed by your failure to respond to our emails below. We also tried unsuccessfully to reach you and Jeffrey Kaufman by telephone this afternoon and have received no return calls.

You have forced us to conclude that your offer only after six months to supply supplemental discovery responses/documents -- and then your failure to honor this offer by actually serving the responses/documents -- is intended to make it impossible for us to proceed with the deposition of Konami scheduled for November 17 and to obstruct our attempts to obtain complete discovery responses from Konami.

We feel that you have left us no choice but to seek the assistance of the Board to compel discovery responses and preclude Konami from offering withheld evidence. We nonetheless remain open to a resolution of this discovery dispute at any time prior to the Board's consideration of the matter.

Very truly yours,

Bill Ried

-----Original Message-----

From: Ried, William
Sent: Monday, November 10, 2003 6:33 PM
To: 'Brian Darville'
Cc: Snitkovsky, Natasha; Jeffrey Kaufman (E-mail)
Subject: RE: UGO Networks v. Konami Corporation

Brian: We did not receive any documents today. We will look for them again tomorrow, but don't have much more time before we must determine whether Konami's discovery responses will permit us to go forward with the depositions or require us to seek the intervention of the Board. We reiterate that we would like you to deliver your supplemental production to us by overnight courier, given the shortness of time, and that we will reimburse these forwarding charges.

We are sure that, like us, you and the Konami witnesses would like to firm up your schedules. If the documents will not be delivered to us tomorrow, please let us know when we can expect them. Thank you. Bill

-----Original Message-----

From: Ried, William
Sent: Friday, November 07, 2003 4:58 PM
To: 'Brian Darville'
Subject: RE: UGO Networks v. Konami Corporation

Brian: We will pay the new charges and the old charges. We ask that you send the documents off for Monday delivery, as we will need quickly to assess whether your supplemental production/ responses respond to our requests sufficiently to permit the depositions to go forward. Thank you. Bill

-----Original Message-----

From: Brian Darville [mailto:BDARVILLE@oblon.com]
Sent: Friday, November 07, 2003 3:09 PM

To: Ried, William
Cc: Amy Sullivan; Jeffrey Kaufman
Subject: UGO Networks v. Konami Corporation

Dear Bill:

Konami is prepared to provide its supplemental document production. The cost of copying these 819 documents would be approximately \$163.80, plus courier charges. If you wish for us to proceed with the production, please confirm your agreement to pay the \$163.80 plus courier charges. We will then copy the documents and produce them to you.

In addition, I am informed that we are still waiting on payment from your firm for Konami's previous production made in June 2003. I attach a copy of your e-mail regarding that charge. Please advise if we have overlooked your payment. Otherwise, please confirm that you will make that payment as well so that we can proceed with Konami's supplemental document production.

Thank you.

Sincerely,

Brian Darville
Oblon, Spivak
(703) 412-6426
bdarville@oblon.com